

HEROLD G. UBALDE, PETITIONER, VS. HON. CONCHITA CARPIO-MORALES, AS THE OMBUDSMAN AND PDG NICANOR A. BARTOLOME, AS CHIEF OF THE PNP, RESPONDENTS.

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the Petition for Certiorari[1] filed by Herold Ubalde (“petitioner Ubalde”), assailing the Office of the Ombudsman 1st Indorsement dated 1 June 2012 (“Indorsement Letter”)[2] issued by Ombudsman Conchita Carpio-Morales (“respondent Carpio-Morales”) referring to the Philippine National Police Chief PDG Nicanor Bartolome (“PNP Chief Bartolome”) the implementation of the Ombudsman Joint Resolution dated 30 May 2012 (“Joint Resolution”)[3] in OMB-C-A-11-0758-L (which found petitioner Ubalde guilty of serious dishonesty and conduct prejudicial to the best interest of the service, and ordering his dismissal from the public service).

Petitioner Ubalde was the respondent in a case before the Ombudsman.

After the parties filed appropriate pleadings and counter-pleadings, on 1 June 2012, the Ombudsman issued the Joint Resolution[4] in OMB-C-C-11-0758-L and OMB-C-A-11-0758-L, dismissing petitioner Ubalde from public service.

Even before petitioner Ubalde could file a motion for reconsideration, respondent Carpio-Morales issued the Office of the Ombudsman 1st Indorsement ordering the immediate implementation of the Joint Resolution, and the immediate dismissal of the guilty officials (including petitioner Ubalde) from the public service.

Petitioner Ubalde was dismissed from the service effective 15 June 2012, per General Order No. 1016.[5]

Petitioner Ubalde files this Petition for Certiorari[6] questioning the propriety of his immediate dismissal from the public service.

The Petition for Certiorari[7] avers that respondent Carpio-Morales committed grave abuse of discretion in issuing the 1st Indorsement which ordered the implementation of the Joint Resolution and ordered petitioner Ubalde's immediate dismissal from the public service.

The issue is whether the Ombudsman committed grave abuse of discretion in issuing the 1st Indorsement which ordered the implementation of the Joint Resolution dismissing petitioner Ubalde from public service.

The Petition thrusts: petitioner Ubalde was not afforded the opportunity to seek a reconsideration of the Joint Resolution, which jurisprudence recognizes as an essential part of due process; the Joint Resolution cannot be immediately implemented prior to the resolution of a motion for reconsideration, or before the lapse of the period to file a motion for reconsideration; Memorandum Circular No. 1, Series of 2006 (“M.C. No. 1”) (enjoining the immediate execution of all decisions, orders, or resolutions of the Ombudsman in administrative disciplinary cases) violates petitioner Ubalde's right to due process.

Respondents' Comment[8] argues that respondent Carpio-Morales did not commit grave abuse of discretion in

issuing the 1[st] Indorsement, which ordered the implementation of the Joint Resolution dismissing petitioner Ubalde from the public service.

Respondents' Comment parries: the Joint Resolution was immediately executory because it was a final and executory judgment, and such judgment cannot be stayed by the filing of an appeal, or the issuance of an injunctive writ; the Ombudsman validly promulgated M.C. No. 1 pursuant to its rule-making power under the Sections 18, 23, and 27 of Republic Act No. 6770 ("R.A. 6770, or The Ombudsman Act"), thus the immediate implementation of petitioner Ubalde's dismissal through the 1st Indorsement was valid.

Petitioner Ubalde filed the Reply,[9] which reiterating the arguments in the Petition for Certiorari.

THE COURT'S RULING

We rule in the negative. Respondent Carpio-Morales did not commit grave abuse of discretion in issuing the 1[st] Indorsement, which ordered the implementation of the Joint Resolution dismissing petitioner Ubalde from the public service.

The Supreme Court in the case of Villaseñor and Mesa v. Ombudsman and Bautista[10] had occasion to rule on this same issue, thus: in cases of Ombudsman decisions which are appealable (like a decision dismissing a respondent from public service), an appeal to the Court of Appeals under Rule 43 of the Rules of Court shall not stop the decision from being executory, and the decision shall be executed as a matter of right; the pendency of a motion for reconsideration cannot stop an order of dismissal for being executory; there is no deprivation of due process when an Ombudsman decision ordering dismissal is implemented while a motion for reconsideration is pending.

Applying the Villaseñor case to this case, we rule that since the Ombudsman's Joint Resolution dated 30 May 2012 which dismissed petitioner Ubalde from public service was an appealable decision, the appeal to this Court did not stop the Joint Resolution from being executory. The Ombudsman did not commit grave abuse of discretion when she issued the 1[st] Indorsement dated 1 June 2012 for the implementation of the Joint Resolution.

Petitioner Ubalde argues that there was here a deprivation of his right to due process because the Ombudsman ordered the implementation of the order of dismissal even before he could file a motion for reconsideration.

As stated in the Villaseñor case, the pendency of a motion for reconsideration does not stop a decision of dismissal from being executory. If a motion for reconsideration already filed cannot stop a decision of dismissal from being executory, it is with more reason that such a decision shall be immediately executory even where there is no motion for reconsideration yet filed.

We DISMISS the Petition for Certiorari.

IT IS SO ORDERED.

Lampas Peralta, F., Chairperson and Cruz, S.C., JJ., concur.

[1] C.A. Rollo, p. 3.

[2] Annex "A" of the Petition for Certiorari, C.A. Rollo, p. 30.

[3] Annex "B" of the Petition for Certiorari, C.A. Rollo, p. 32.

[4] Supra, note 3.

[5] Annex “E” of the Petition for Certiorari, C.A. Rollo, p. 257.

[6] Supra, note 1.

[7] Supra, note 1.

[8] C.A. Rollo, p. 314.

[9] C.A. Rollo, p. 335.

[10] G.R. No. 202303, 4 June 2014.

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