

DR. ELISEO L. RUIZ, PRESIDENT OF CENTRAL LUZON STATE UNIVERSITY (CLSU), MUÑOZ, NUEVA ECIJA, PETITIONER, VS. HONORABLE EXECUTIVE SECRETARY FRANKLIN DRILON, HON. ISIDRO CARIÑO, I...

G.R. No. 101666. June 09, 1992

Ponente: FELICIANO, J.

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FELICIANO, J.:

The Court NOTED the sixth motion for extension of time to submit a comment to the petition for certiorari and prohibition, (G.R. No. 101666) filed by the Solicitor General on behalf of the public respondents Executive Secretary and the Secretary of the Department of Education, Culture and Sports ("DECS"), and Resolved to DISPENSE with the comment required of the public respondents, considering that the pleadings and other papers already filed by the other parties in this case are adequate to enable the Court to act upon the present petition.

II.

On 6 May 1991, President Corazon Aquino issued Administrative Order ("AO") No. 218 dismissing petitioner Eliseo Ruiz for cause from his office as President of the Central Luzon State University ("CLSU").[1]

In two (2) orders dated 2 July 1991 and 3 September 1991, the Executive Secretary, acting by authority of the President, denied petitioner's first and second motions for reconsideration therefrom, the first for lack of merit and the second for being pro forma. Consequently, AO No. 218 became final and executory.[2]

On 1 October 1991, petitioner filed a petition for prohibition with prayer for a temporary restraining order (TRO) with the Court of Appeals, where it was docketed as CA-G.R. No. SP-21656.[3] Petitioner there sought to annul, as products of grave abuse of discretion, President Aquino's order dated 13 September 1991 appointing Dr. Fortunato Battad as the new CLSU President, as well as DECS Undersecretary Marina Pangan's order dated 24 September 1991 directing petitioner to turn-over the CLSU Presidency to Dr. Battad. The Court of Appeals issued the TRO prayed for by petitioner.[4]

Eight days later, on 9 October 1991, petitioner filed with the Supreme Court the present petition (G.R. No. 101666) for certiorari and prohibition with prayer for a TRO for the purpose of annulling, for alleged grave abuse of discretion, the issuance of AO No. 218 as well as of the orders of the Executive Secretary denying his motions for reconsideration therefrom.[5] The Court did not issue the TRO prayed for by petitioner.[6] This petition made no mention of the petition for prohibition with prayer for TRO filed 8 days earlier with the Court of Appeals (CA-G.R. No. SP-21656).

On 9 January 1992, the Court's Circular No.28-91 dated 3 September 1991 having gone into effect on 1 January 1992, petitioner filed a manifestation and compliance dated 6 January 1992, where for the first time, he disclosed to this Court the other judicial proceedings which he had commenced in connection with the issuance of AO No.

218.[7]

On 29 January 1992, after due proceedings, the Court of Appeals promulgated its decision in CA-G.R. No. SP-26165, dismissing the petition for lack of merit and finding the same to be a case of forum shopping.[8] Petitioner sought review of this decision by way of a petition for review under Rule 45 with the Supreme Court, which petition was docketed as G.R. No. 103570 and assigned to the Second Division.[9] This case was consolidated with G.R. No. 101666, by this time pending with the Court En Banc, by a resolution dated 2 April 1992.

Meanwhile, on 28 January 1992, the Court issued a resolution requiring petitioner to show cause why the petition in G.R. No. 101666 should not be dismissed as an apparent case of forum shopping, considering that the parties involved, issues raised and the reliefs sought therein are substantially identical with those in CA-G.R. No. SP-26165.[10]

Petitioner submitted a manifestation and compliance dated 6 January 1992 obviously in anticipation of the 29 January 1992 Resolution of the Court, as well as an undated compliance filed on 2 March 1992 in response to the same resolution. He denies having engaged in forum shopping and contends: (1) his cause of action in CA-G.R. No. SP-26156 consists of the illegality of the actions taken by the Office of the President and by the DECS in implementing AO No. 218, which may render moot the Court's review of the intrinsic merits of AO No. 218, an entirely different cause of action in itself; and (2) he never attempted to hide the fact, either before this Court or the Court of Appeals, that he had instituted both actions "for separate reasons, apart though related from each other," such candor being "an elementary consideration in the determination of the issue whether he committed forum shopping or not." [11]

Deliberating on the present consolidated Petitions, the Court finds the explanations proffered by petitioner and his counsel as justifications for the procedural maneuvers undertaken in this case to be completely unsatisfactory and considers the Petitions to be clear cases of deliberate forum shopping.

The Court views with considerable disfavor the legal maneuvers undertaken by petitioner and his counsel of record, Atty. Crispulo S. Esguerra, to defeat his removal from office. It is evident that petitioner, in violation of Section 3, Rule 2 of the Rules of Court, had split a single cause of action consisting of the alleged illegality of his removal from office by the President through AO No. 218, by seeking judicial review of (1) AO 218 with the Court and at the same time (2) having the enforcement aspect of the President's action and the filling up of the resulting vacancy reviewed by the Court of Appeals. It also appears to the Court that petitioner carried out these acts in order to obtain a TRO (albeit with a limited twenty-day lifetime) from the Court of Appeals, issued as a matter of course, in order to stop the execution and implementation of AO No. 218, and afterwards, to try to get a TRO with an indefinite lifetime from this Court for the same purpose, in case his petition in the main action of CA-G.R. No. SP-26165 would be dismissed on the merits by the Court of Appeals.

Moreover, during the period when the proceedings in G.R. No. 101666 and CA-G.R. No. SP-26165 were simultaneously pending action before two (2) different fora, petitioner created for himself a situation where he could hope to get (after the 20-day life of the Court of Appeals TRO) a judicial order from either forum which could stop the execution of AO No. 218 with more permanency (i.e., either a TRO with an indefinite lifetime from the Supreme Court or the grant of his petition for prohibition by the Court of Appeals). Thus the Court of Appeals, aware of the institution of G.R. No. 101666,[12] committed no reversible error in considering the action before it as another, independent case and as an instance of forum shopping.

Petitioner sought to maintain the two (2) segments of his single cause of action again by instituting G.R. No.103570, in a bid to ensure that the decision on the merits in CA-G.R. No. SP-26165 will not attain finality and

enforceability, even though the matters involved therein are essentially the incidents of the case already pending review in G.R. No. 101666.

Forum shopping effected by a party litigant through the deliberate splitting of causes of actions and appeals in the hope that even as one case (in which a particular remedy is sought) is dismissed, another case (offering a similar remedy) would still be open, is a deplorable practice because it results in the unnecessary clogging of the already heavily burdened dockets of the courts.[13]

Section 17 of the Interim Rules and Guidelines issued by the Court on 11 January 1983, relative to the implementation of section 9 of BP 129, granting the Intermediate Appellate Court (now the Court of Appeals) equal original jurisdiction to issue the extraordinary writs of certiorari, prohibition, etc., whether or not in aid of its appellate jurisdiction, provides that if such a petition is filed before the Court of Appeals and is still pending therein, a similar petition cannot be filed in the Supreme Court. A violation of this rule has also been considered a clear case of forum shopping, an act of malpractice proscribed as trifling with the courts and abusing their processes. The Rule itself provides that a violation thereof constitutes: (1) cause for the summary dismissal of both petitions; and (2) contempt of court for which the party or counsel concerned may be held accountable.[14]

The pretended candor of petitioner and his counsel here does not persuade. Petitioner never informed the Court of the existence of CA-G.R. No. SP-26165 when he filed his petition in G.R. No. 101666, the first opportunity available to him to be completely candid with the Court. It was the private respondents, in their comment to the petition filed on 16 November 1991, who gave the Court first notice of the other proceeding.[15] It is obvious that petitioner filed his subsequent manifestation because he was no longer able to deny the existence of the proceeding before the Court of Appeals. Petitioner's attempt to trifle with the highest court of the land in this manner renders him liable for forum shopping.[16]

III.

In addition to the foregoing, the Court deliberated upon the merits of the consolidated Petitions and considers that petitioner has failed to show any grave abuse of discretion or any act without or in excess of jurisdiction on the part of public respondents in rendering the assailed administrative orders.

Petitioner is not entitled to be informed of the findings and recommendations of any investigating committee created to inquire into charges filed against him. He is entitled only to an administrative decision that is based on substantial evidence made of record and a reasonable opportunity to meet the charges made against him and the evidence presented against him during the hearings of the investigating committees.[17] There is no doubt that he has been accorded his rights.

AO No. 218 made certain findings of fact on the basis of which petitioner was removed from office. Those findings included the facts that (a) petitioner terminated the CLSU's Executive Vice-President, offered new academic courses, undertook unprogrammed projects resulting in wastage of university property, all without the necessary approval of the Board of Regents; (b) he directed the purchase at uncanvassed prices of chemicals unsuitable for the required school purposes from a firm owned by him; (c) he executed, on behalf of CLSU, a crop harvest sales agreement in favor of a company where he was holding a directorship; and (d) he collected financial contributions from the faculty and students in disregard of the provisions of R.A. No. 5546.[18] These acts constitute dishonesty and grave misconduct, and furnish legal basis for dismissal from the public service.[19]

ACCORDINGLY, the Petition for Certiorari and Prohibition in G.R. No. 101666, as well as the Petition for Review in G.R. No. 103570, are hereby DISMISSED as clear cases of forum shopping and for lack of merit. The Decision of the Court of Appeals in C.A.-G.R. No. SP-26165 dated 29 January 1992 is hereby AFFIRMED in

toto.

Petitioner's counsel, Atty. Crispulo S. Esguerra, is hereby ADMONISHED and WARNED that repetition of the same or similar acts of forum shopping will be more severely punished. A copy of this Resolution shall be attached to the personal record of Atty. Crispulo S. Esguerra in the office of the Bar Confidant. Costs against petitioner.

Narvasa, C.J., Gutierrez Jr., Cruz, Paras, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and Bellosillo, JJ., concur.

Nocon, J., on leave.

[1] Rollo, p. 31. Unless otherwise qualified, the term "Rollo" shall refer to the Rollo of G.R. No. 101666.

[2] Id., pp. 34-36.

[3] Id., p. 267.

[4] Id., p. 398.

[5] Id., pp. 1 and 18.

[6] Id., p. 203.

[7] Id., pp. 267-269.

[8] Id., p. 405.

[9] Id., G.R. No. 103570, p. 12.

[10] Id., p. 316-A.

[11] Id., pp. 266, 367-371.

[12] Rollo, p. 401

[13] Tan v. Court of Appeals, 199 SCRA 212, 224-225 [1991]; see also New Pangasinan Review, Inc. v. National Labor Relations Commission, 196 SCRA 55, 65-66 (1991).

[14] Resolution of July 31, 1986, G.R. No. 75197, E. Razon Inc., et. al. v. Philippine Ports Authority, et. al.; reiterated in Buan v. Lopez, Jr., 145 SCRA 34, 38-39 (1986), Alonto, Jr. v. Memoracion [En Banc], 185 SCRA 73, 78-79 (1990) and in Benguet Electric Cooperative, Inc. v. National Electrification Administration, 193 SCRA 250, 255-256 (1991).

[15] Rollo, pp. 242-243.

[16] Collado v. Hernando, 161 SCRA 639, 645 (1988).

[17] Air Manila, Inc. v. Balatbat, 38 SCRA 489 (1971); Villa v. Lazaro, 189 SCRA 34, 44 (1990).

[18] Rollo, pp. 30-31.

[19] Section 46(b), sub—paragraphs 1 and 4, Chapter 7, sub—title A, Title I, Book 5, Revised Administrative Code of 1987; Civil Service Memorandum Circular No. 30 (series of 1989), paragraph A, sub—paragraphs 1 and 3.

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