

LOLITA DADUBO, PETITIONER, VS. CIVIL SERVICE COMMISSION AND THE DEVELOPMENT BANK OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 106498. June 28, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

Petitioner Lolita A. Dadubo, Senior Accounts Analyst and Rosario B. Cidro, Cash Supervisor, of the Development Bank of the Philippines, Borongan Branch were administratively charged with conduct prejudicial to the best interest of the service.[1] The charges were based on reports on the unposted withdrawal of P60,000.00 from Savings Account No. 87-692 in the name of Eric Tiu, Edgar Tiu, and/or Pilar Tiu.

The formal investigations revealed that in the morning of August 13, 1987, Erlinda Veloso, authorized representative of the Tius, presented an undated withdrawal slip for P60,000.00.[2] Dadubo, as acting teller, prepared the corresponding ticket and voucher in the name of the cash supervisor, Rosario Cidro. Dadubo initialed the withdrawal slip, ticket and voucher, all dated August 13, 1987, and passed on to Cidro all the documents on the said transaction. These were then forwarded to the accountant, Reynaldo Dorado, who signed the voucher ledger card of the Tius' savings account and forwarded the documents to Apolinario Babaylon, bookkeeper, who was also acting as posting machine operator. After posting the amount of P60,000.00 on the ledger card and passbook, Babaylon initialed the withdrawal slip and returned the documents to Dorado, who approved the withdrawal and thereafter disbursed the P60,000.00 to Veloso. The Received payment portion of the withdrawal slip was signed Veloso but Cidro, who disbursed the amount, failed to initial the passbook.

After banking hours, another withdrawal slip was presented by Feliciano Bugtas, Jr., also an employee of the Tius.[3] This was the second P60,000.00 withdrawal. Veloso did not know about it. The withdrawal slip was processed and approved on the same day, August 13, 1987. The space Posted by was initialed by Babaylon but no posting was actually made because the passbook was not presented. While the withdrawal slip was dated August 13, 1987, all other supporting documents were dated August 14, 1987, this being a withdrawal after banking hours (ABH).

The following day, August 14, 1987, prior to the payment of the ABH withdrawal, Veloso presented another undated withdrawal slip for P60,000.00.[4] This was the third P60,000.00 withdrawal. The withdrawal slip was received by Dorado, who handed it to Dadubo. At that time, Cidro was encashing the check at PNB to satisfy the ABH withdrawal. When she returned from the bank, she paid this withdrawal to Veloso, who thought that what she was collecting was the P60,000.00 corresponding to the withdrawal slip she presented that morning.

When Dadubo informed Cidro about the third withdrawal, till money of P100,000.00 was made to service it. Prior to the payment of the third P60,000.00 withdrawal, Veloso came back and presented another withdrawal slip for P40,000.00.[5] The petitioner claimed she disbursed P100,000.00 to Veloso, covering the third P60,000.00 and the P40,000.00 withdrawals. On the other hand, Veloso testified that she received only P40,000.00 from the

petitioner. She acknowledged receipt of the amount by signing the withdrawal slip and indicating opposite her signature the amount of P40,000.00.

That left the balance of P60,000.00 unaccounted for and directly imputable to Dadubo.

On the basis of these findings, DBP found Dadubo guilty of dishonesty for embezzlement of bank funds. She was penalized with dismissal from the service.[6] Cidro was adjudged guilty of gross neglect of duty and fined in an amount equivalent to one month basic salary, payable through salary deductions in not more than 12 installments.

Dadubo appealed to the Merit Systems Protection Board (MSPB),[7] which affirmed the decision of the DBP, declaring as follows:

There is nothing in the records to show that the Senior Manager, Personnel Services and Vice-Chairman, both of the DBP, abused their discretion in deciding the case against the appellant or that their decision was made and attended with arbitrariness or unfairness. To all intents and purposes, the ensuing decision was a necessary consequence of the evidence.

However, DBP was reversed by the Civil Service Commission in its Resolution No. 91-642, dated May 21, 1991,[8] which reduced Dadubo's penalty to suspension for six months on the ground that:

Although Dadubo made alterations on the dates in the Ledger Card from August 13 to August 14, the fact remains that the bank was defrauded on account of said ABH withdrawal (for) which Cidro is held responsible and accordingly found guilty of Gross Neglect of Duty and Inefficiency and Incompetence in the Performance of Official Duty. It was also Dadubo who reported on the irreconcilable P60,000.00. The most that Dadubo could be charged with is willful violation of office regulation when she undertook reconciliation for under the Bank Manual the tellers are not allowed access to the savings account ledger cards.

Respondent DBP moved for reconsideration. On July 16, 1992, the Commission acting favorably on the motion, promulgated Resolution No. 92-878[9] affirming the earlier findings of the DBP as to Dadubo's guilt, thus –

The records reveal that Dadubo admitted in her Answer that she changed entry of the date August 13 to 14 in the ledger in the course of her reconciliation which she was advised not to do.

x x x

This act of admission needs no further elaboration to prove that Dadubo is guilty of the charge. Such admission is however treated as a mitigating circumstance which is offset by the aggravating circumstance of taking advantage of her official position. There is no reason for her to change or alter entries in ledger unless she intends to benefit therefrom or to conceal some facts.

Further, it should be noted that the report was made only on September 28, 1987 (the date the report on reconciliation was submitted to the Regional Office). It should be emphasized as earlier stated that Dadubo was not authorized to reconcile the subsidiary ledger cards for the period ending August 20, 1987. Hence, as emphatically stated in the MSPB decision, "xxx respondent Dadubo manipulated the bank records to conceal the offense which constituted the act of dishonesty."

The opinion of an acting Internal Audit Officer, whose report was among the preliminary findings considered in the investigation of the case, is not conclusive as there are other available and convincing evidence to prove the guilt of Dadubo.

Dadubo has brought her case to this Court in this petition for certiorari. She claims that CSC Resolution No. 92-878 failed to comply with the constitutional requirement to state clearly and distinctly the facts and the law on which the decision is based; CSC Resolution No. 92-878 conflicts with the findings of fact in CSC Resolution No. 91-642; the Commission manifestly overlooked or disregarded certain relevant facts not disputed by the parties;

and it based its conclusions entirely on speculations, surmises or conjectures.

Required to comment, the Solicitor General argued that CSC Resolution No. 92-878 did not need to restate the legal and factual bases of the original decision in CSC--MSPB No. 497 which already explained the relevant facts and the applicable law. The petitioner had admitted that she changed the entry of the dates in the subsidiary ledger card from August 13 to 14 in the course of her reconciliation work although she was not authorized to do this. This admission, along with the other evidence presented during the investigation in the bank, proved Dadubo's guilt. Moreover, the affidavit of Albert C. Ballicud was inadmissible in evidence because he was never subjected to cross-examination.

The petitioner's challenges are mainly factual. The rule is that the findings of fact of administrative bodies, if based on substantial evidence, are controlling on the reviewing authority.[10] 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 the evidence and the credibility of the witnesses.[11] 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.[12] None of these vices has been shown in this case.

The petitioner's invocation of due process is without merit. Her complaint that she was not sufficiently informed of the charges against her has no basis. While the rules governing judicial trials should be observed as much as possible, their strict observance is not indispensable in administrative cases.[13] As this Court has held, "the standard of due process that must be met in administrative tribunals allows a certain latitude as long as the element of fairness is not ignored." [14]

The essence of due process is distilled in the immortal cry of Themistocles to Eurybiades: "Strike, but hear me first!" Less dramatically, it simply connotes an opportunity to be heard. The petitioner had several opportunities to be heard and to present evidence that she was not guilty of embezzlement but only of failure to comply with the tellering procedure. Not only did she testify at her formal investigation but she also filed a motion for reconsideration with the DBP, then appealed to the Merit Systems Protection Board (MSPB) and later elevated the case to the Civil Service Commission. Having been given all these opportunities to be heard, which she fully availed of, she cannot now complain that she was denied due process.

Appreciation of the evidence submitted by the parties was, to repeat, the prerogative of the administrative body, subject to reversal only upon a clear showing of arbitrariness. The rejection of the affidavit of Ballicud, for example, was not improper because there was nothing in that document showing that the petitioner did not embezzle the P60,000.00.

It is true that the petitioner was formally charged with conduct prejudicial to the best interest of the bank and not specifically with embezzlement. Nevertheless, the allegations and the evidence presented sufficiently proved her guilt of embezzlement of bank funds, which is unquestionably prejudicial to the best interest of the bank.

The charge against the respondent in an administrative case need not be drafted with the precision of an information in a criminal prosecution. It is sufficient that he is apprised of the substance of the charge against him; what is controlling is the allegation of the acts complained of, not the designation of the offense.[15]

We must also dismiss the petitioner's complaint that CSC Resolution No. 92-878 failed to comply with the constitutional requirement to state clearly and distinctly the facts and the law on which a decision is based. We have held that this provision applies only to courts of justice and not to administrative bodies like the Civil Service Commission.[16] In any event, there was an earlier statement of the facts and the law involved in the decision rendered by the MSPB dated February 28, 1990, which affirmed DBP's decision to dismiss the petitioner.

In both decisions, the facts and the law on which they were based were clearly and distinctly stated.

It is worth adding that inasmuch as Civil Service Resolution No. 92-878 was rendered only to resolve DBP's motion for reconsideration, it was not really necessary to re-state the factual and legal bases for the said decisions. Even resolutions issued by this Court do not need to conform to the first paragraph of Article VIII, Section 14, of the Constitution, for reasons extensively discussed in *Borromeo v. Court of Appeals*[17] and other subsequent cases.[18]

We find no justification to nullify or modify the questioned resolution. It would perhaps have been more thorough if certain other officers of the bank had been also investigated for their part in the anomalous transaction. But that matter is not before this Court and cannot be resolved by us at this time.

WHEREFORE, the petition is DISMISSED for lack of a clear showing of grave abuse of discretion on the part of the Civil Service Commission in issuing the questioned resolutions. Costs against the petitioner.

SO ORDERED.

Narvasa, C.J., Feliciano, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, and Quiason, JJ., concur.
Padilla, J., on leave.

[1] Annex "I," Rollo, p. 44.

[2] Annex "C," *Ibid.*, pp. 36; 55-56.

[3] Annex "D," *Id.*, pp. 37; 56.

[4] Annex "E," *id.*, pp. 38; 57.

[5] *id.*, p. 60.

[6] *id.*, p. 62.

[7] *id.*, pp. 110-120.

[8] *id.*, pp. 31-35.

[9] *id.*, pp. 27-30.

[10] *Jaculina v. National Police Commission*, 200 SCRA 489; *Biak-na-Bato Mining Co. v. Tanco, Jr.*, 193 SCRA 323; *Doruelo v. Ministry of National Defense*, 169 SCRA 448.

[11] *Assistant Executive Secretary for Legal Affairs of the Office of the President v. Court of Appeals*, 169 SCRA 27; *Lao Tang Bun v. Fabre*, 81 Phil. 682.

[12] *Apex Mining Co., Inc. v. Garcia*, 199 SCRA 278; *Greenhills Mining Co. v. Office of the President*, 163 SCRA 350; *Lovina v. Moreno*, 9 SCRA 557; *Timbancaya v. Vicente*, 9 SCRA 852.

[13] *Bautista v. Secretary of Labor and Employment*, 196 SCRA 470.

[14] *Adamson and Adamson, Inc. v. Amores*, 152 SCRA 237; *Gas Corp. of the Phil. v. Inciong*, 93 SCRA 563.

[15] *Heirs of Celso Amarante v. Court of Appeals*, 185 SCRA 585; *Eugenio, Sr. v. Velez*, 185 SCRA 425.

[16] *Prudential Bank v. Castro*, 158 SCRA 646; *Buscayno v. Enrile*, 102 SCRA 7; *Mangca v. Commission on*

Elections, 112 SCRA 273.

[17] 186 SCRA 1.

[18] Candelaria v. Court of Appeals, G.R. No. 93685, August 20, 1990 (Min. Resolution); Nicos Industrial Corporation v. Court of Appeals, 206 SCRA 127.

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