

UNIVERSITY OF THE PHILIPPINES, PETITIONER, VS. CIVIL SERVICE COMMISSION, MERIT SYSTEMS PROTECTION BOARD AND SOCORRO V. GREGORIO, RESPONDENTS.

G.R. No. 108740. December 01, 1993

Ponente: REGALADO, J.

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REGALADO, J.:

The instant petition seeks the reversal of Resolution No. 93-006 issued by respondent Civil Service Commission (CSC) on January 5, 1993[1] affirming the decision of the Merit Systems Protection Board (MSPB) and dismissing the appeal of herein petitioner.

The records show that on May 27, 1989, the President of the University of the Philippines (UP) filed an administrative case against private respondent Socorro V. Gregorio for conduct prejudicial to the interest of the university, charging her in this wise:

"That sometime before June 1988 you, as employee of the University connected with the U.P. Diliman Police bought the self-built house of Mr. Ignacio P. Hementera from his wife, Rosalinda Hementera, while the husband is (sic) abroad. Such sale is null and void and is not recognized under Memo No. 83 of the Office of the President and your occupancy of the land on which said house stands is without the knowledge, consent and authority of the University authorities. Such conduct is prejudicial to the interest of the University punishable under P.D. No. 807, Civil Service Decree."[2]

Pursuant thereto, an investigation was conducted by the Administrative Disciplinary Tribunal (ADT), constituted for that purpose and chaired by petitioner's present counsel, wherein the parties presented their respective testimonial and documentary evidence. A formal investigation report was subsequently submitted by the ADT finding that there is more than substantial evidence to show that respondent is guilty of the offense charged.[3]

Consequently, UP President Jose V. Abueva issued an Order,[4] dated March 7, 1991, finding private respondent guilty as charged and imposing upon her the penalty of six (6) months suspension chargeable against her leave credits. She was also ordered to vacate the housing unit within fourteen (14) days from notice of said order, to deliver possession thereof to the university, and to accept the offer of Ignacio P. Hementera to refund to her the amount of P25,000.00 which she paid for said unit.

Private respondent appealed to the MSPB which thereafter rendered a decision on October 21, 1991 in MSPB Case No. 91-1253, setting aside the appealed decision, finding her guilty only of a violation of reasonable office regulations, and modifying the penalty to a reprimand with a warning that she "be more circumspect in her actuations, otherwise, these should be dealt with more severely in the future."[5]

Petitioner elevated the decision of the MSPB before respondent commission which subsequently issued the questioned resolution dismissing the appeal on the ground that UP is not a party adversely affected by the decision of the MSPB and, therefore, it has no right to appeal therefrom, aside from the fact that the CSC has no appellate

jurisdiction over administrative disciplinary cases where the penalty imposed is suspension of less than thirty (30) days.

Petitioner now claims that respondent commission erred in affirming the MSPB decision which supposedly amended the charge against and the penalty imposed upon private respondent, asseverating that the MSPB had no jurisdiction to amend the charge from one of conduct prejudicial to the interests of the service to one of violation of reasonable office regulations. It likewise claims that there exists substantial evidence to sustain petitioner's holding that private respondent is guilty of conduct prejudicial to the interests of the university. Public respondents, through the Solicitor General, have frontally met said issues with arguments of such puissance as to warrant dispensing with further comment from private respondent.

On a judicious assay of the submissions of the parties, we find no merit in the petition.

The right to appeal is not a natural right nor a part of due process; it is merely a statutory privilege which may be exercised only in the manner prescribed by and in accordance with the provisions of the law.[6] This doctrine is equally made applicable to quasi-judicial proceedings so that one must first ascertain the law applicable to determine whether or not the party can appeal from the order or decision.[7] The reason for this is that even administrative proceedings must end sometime, just as public policy demands that finality be written on judicial controversies.[8]

Section 37 of Presidential Decree No. 807, or the Civil Service Decree, provides that the Civil Service Commission shall have appellate jurisdiction over all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty (30) days, or a fine in an amount exceeding thirty (30) days salary, demotion in rank or salary, or transfer, removal or dismissal from office.[9] The inescapable conclusion is that in an administrative case, where the penalty imposed is not one of those covered by or is less than those enumerated under Section 37, the decision of the disciplining authority shall be final and inappealable. Respondent CSC has no jurisdiction to review the same on appeal.

In the case at bar, it cannot be gainsaid that the decision of the MSPB merely imposed a reprimand on herein private respondent with a stern warning that a similar infraction in the future shall be dealt with more severely. Under such circumstances, even private respondent cannot appeal therefrom to respondent Commission.

Furthermore, it is likewise provided by Presidential Decree No. 807, specifically in Section 39 thereof, that appeals, where allowable, shall be made by the party adversely affected by the decision within fifteen (15) days from receipt thereof.[10] The term "party adversely affected" has been interpreted by this Court as referring to the person or the respondent employee against whom the administrative disciplinary case is filed.

It has thus been held in the case of *Paredes vs. Civil Service Commission, et al.*, [11] and reiterated in *Mendez vs. Civil Service Commission, et al.*, [12] that:

"Based on the above provisions of law, appeal to the Civil Service Commission in an administrative case is extended to the party adversely affected by the decision, that is, the person or the respondent employee who has been meted out the penalty of suspension for more than thirty days; or fine in an amount exceeding thirty days salary, demotion in rank or salary, or transfer, removal or dismissal from office. The decision of the disciplining authority is even final and not appealable to the Civil Service Commission in cases where the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days salary. x x x.

"Here the MSPB, after hearing and the submission of memoranda, exonerated private respondent of all charges except for habitual tardiness. The penalty was only a reprimand so that even private respondent Amor, the party adversely affected by the decision, cannot even interpose an appeal to the Civil Service Commission."

As we have earlier stated, the exercise of the right to appeal, being merely a statutory right, is subject to the requirements of the governing law. No right to appeal having been granted to herein petitioner under the circumstances obtaining in this case, it can not successfully invoke or avail of such remedy.

Finally, we find no cogency in the argument of petitioner that the MSPB amended the charge against private respondent, as well as the corresponding penalty. This is merely a case where the MSPB found that, on the basis of the facts and the evidence adduced herein, private respondent should only be held guilty of a violation of reasonable office regulations. What this obviously means is that the facts and the evidence obtaining in the case do not suffice to warrant a finding of guilt for conduct prejudicial to the interests of the university. Withal, it is legally permissible, as in fact it is recognized both in law and jurisprudence, that a party may be found guilty of a lesser offense than that charged. It is not how petitioner wishes to categorize the offense but what that offense is as made out by the evidentiary facts and the law. Besides, it has generally been the accepted rule that where the findings of the administrative body are amply supported by substantial evidence, such findings are accorded not only respect but also finality.[13]

Accordingly, it cannot be said that the MSPB, in petitioner's deplorably unrestrained language, "simple--mindedly likened her offense to the violation of an ordinary office regulation." On the contrary, said respondent board has pithily resolved the controversy under a ratiocination which we quote with approval:

"The appealed decision found Gregorio guilty of Grave Misconduct. We are, however, of the belief that under the circumstances obtaining, the evidence of guilt of grave misconduct is wanting. In order for grave misconduct to exist, there must be substantial evidence showing that the acts complained of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules (Impeachment of Horrilleno, 43 Phil. 212). On the contrary, the record is bereft of any proof which establishes that Gregorio is guilty of grave misconduct. It is a fact that there exists a U.P. Memorandum No. 83, dated September 2, 1981, which prohibits the Sale, Donation, or Assignment of Private-Owned Houses in the U.P. Campus. Any violation thereof cannot be equated with misconduct. Misconduct in office implies a wrongful intention, and not mere indiscretion, and acts done in good faith, i.e., an act of buying a real property right, which constitutes only an error of judgment, cannot be characterized as a misconduct in office; hence, appellant Gregorio could not be guilty thereof, but only of violation of office regulations." [14]

In addition, the sufficiency or insufficiency of evidence in support of the findings of the MSPB is a factual issue which is not within the purview of an original action for certiorari under Rule 65 of the Rules of Court, absent a showing of such grave abuse of discretion as would amount to lack or excess of jurisdiction. Petitioner would do well to recall that the extraordinary writ it prays for does not issue to correct an error of judgment or even a simple abuse of discretion, neither of which is present in nor taints the challenged disposition.

WHEREFORE, the instant petition is DISMISSED and the impugned resolution is hereby AFFIRMED in toto.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Davide, Jr., Romero, Nocon, Melo, Quiason, Puno, and Vitug, JJ., concur.

Bellosillo, J., on leave.

[1] Annex C, Petition; Rollo, 29.

[2] Annex D, id.; ibid., 33.

[3] Annex G, id.; ibid., 39.

[4] Annex A, id.; ibid., 24.

[5] Annex B, id.; ibid., 26.

[6] Villanueva vs. Court of Appeals, et al., 205 SCRA 537 (1992).

[7] Paredes vs. Civil Service Commission, et al., 192 SCRA 84 (1990).

[8] Tiatco vs. Civil Service Commission, et al., 216 SCRA 749 (1992).

[9] The same provision appears as Section 47, Chapter 7, Book V of Executive Order No. 292 (Administrative Code of 1987), which took effect on November 23, 1989 by virtue of Proclamation No. 495 of even date.

[10] See also Section 49, Book V, Executive Order No. 292.

[11] 192 SCRA 84 (1990).

[12] 204 SCRA 965 (1991).

[13] Tiatco vs. Civil Service Commission, et al., supra.

[14] Rollo, 28.

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