

PO1 VIRGILIO FLORA CARA, PETITIONER, VS. COURT OF APPEALS (FOURTH DIVISION), THE HONORABLE RAFAEL M. ALUNAN III, IN HIS CAPACITY AS THE SECRETARY OF THE DEPARTMENT OF THE INTERI...

G.R. No. 127625. May 31, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case before the Court is an appeal via certiorari from a decision of the Court of Appeals dismissing the petition for certiorari and mandamus instituted by petitioner seeking to set aside his dismissal from the police service and his reinstatement to the Philippine National Police with all the rights and privileges allowed by law.[1]

The facts are as follows:

On March 7, 1993, at around 6:30 in the morning, petitioner Cara and his companion, Abraham Rosagaran, went to a bakery store located at the intersection of Anonas Street and Kamias Road, Quezon City. He parked his owner type jeep in front of the bakery.

While buying bread, petitioner noticed that a blue Nissan Bluebird car with plate No. PN-113, owned and driven by respondent Chua, sideswiped the jeep.

Despite hitting the jeep, respondent Chua continued driving on his way and stopped only when petitioner Cara and his companion gave chase and signaled him to pull over.

Momentarily, respondent Chua alighted from his car; petitioner's companion Rosagaran approached him. An argument ensued and respondent Chua hit Rosagaran on the face with his fist.

Petitioner introduced himself as a police officer (Police Officer 1) and invited respondent Chua to the police station. In quick response, respondent Chua immediately pummeled petitioner Cara on the face. He fell to the ground.

Still dazed, petitioner saw respondent Chua and Rosagaran engage in a fist fight. Soon, policemen from the Anonas Sub-station arrived at the scene and pacified the protagonists.

On April 14, 1993, the People's Law Enforcement Board, (PLEB) Quezon City, subpoenaed petitioner Cara for a hearing of an administrative case that respondent Chua leveled against him.[2]

The PLEB conducted hearings at which both parties presented their respective evidence. On July 19, 1994, the PLEB rendered a decision finding petitioner guilty of grave misconduct and ordering his dismissal from the Philippine National Police effective immediately.[3]

In due time, petitioner Cara appealed to the Regional Appellate Board, National Police Commission (Napolcom). On May 22, 1995, the Board rendered a decision sustaining the findings of the People's Law Enforcement Board

and dismissing the appeal.[4] Petitioner's motion for reconsideration was denied in the Napolcom's resolution dated August 15, 1995.[5]

On January 18, 1996, petitioner filed with the Secretary of Interior and Local Government Rafael M. Alunan III, a petition for review or appeal from the resolution dated August 15, 1995 of the Regional Appellate Board.[6] However, on February 2, 1996, the Napolcom denied the petition because the decision was not appealable to the Secretary of Interior and Local Government.[7]

On April 2, 1996, petitioner filed with the Court of Appeals a petition for certiorari and mandamus, to set aside the Napolcom's order dismissing him from the service and to compel his reinstatement to the Philippine National Police.[8]

On May 10, 1996, the Court of Appeals promulgated its decision dismissing the petition.[9]

Hence, this appeal.[10]

On April 28, 1997, we required respondents to comment on the petition within ten (10) days from notice.[11]

At issue in this appeal is whether or not the Court of Appeals erred in dismissing the petition for review of the resolutions of the National Police Commission dismissing petitioner from the service of the Philippine National Police.

The grounds raised in the petition involve an appreciation of the evidence adduced against petitioner in the administrative case instituted against him.

The Court of Appeals correctly ruled that certiorari and mandamus as special civil actions are remedies for the correction of errors of jurisdiction, not errors of judgment.[12] The Court of Appeals also correctly ruled that even considering the petition as one for review, the petition must be dismissed because it was filed out of time.[13]

WHEREFORE, the Court DENIES the petition, for lack of merit.

No costs.

SO ORDERED.

Puno, and Kapunan, JJ., concur.

Davide, Jr., C.J., (Chairman), on official leave.

Ynares-Santiago, J., no part.

[1] Petition, Annex "A", Rollo, pp. 38-40.

[2] Adm. Case No. 93-108, Teodoro B. Chua vs. PO1 Virgilio Cara.

[3] Petition, Annex "D", Rollo, pp. 88-92.

[4] Petition, Annex "C", Rollo, pp. 78-83.

[5] Petition, Annex "B", Rollo, pp. 75-77.

[6] Petition, Annex "E-1", Rollo, pp. 103-129.

[7] Petition, Annex "A-2", Rollo, pp. 42-43.

[8] Docketed as CA-G. R. SP No. 40269.

[9] Petition, Annex "A", Rollo, pp. 38-40.

[10] Filed on January 21, 1997, Petition, Rollo, pp. 3-36.

[11] Rollo, p. 157.

[12] Purefoods Corp. vs. NLRC, 171 SCRA 415, 426 (1989), citing Philippine Rabbit Bus Lines, Inc. vs. Galauran and Pilares Construction Co., 118 SCRA 644 (1982); Fortich vs. Corona, 289 SCRA 624, 642 (1998); Cebu Woman's Club vs. de la Victoria, G. R. No. 120060, March 9, 2000; Medina vs. City Sheriff, Manila, 276 SCRA 133 (1997)

[13] Revised Supreme Court Adm. Circular No. 1-95)

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