

HON. EDUARDO NONATO JOSON, IN HIS CAPACITY AS THE GOVERNOR OF THE PROVINCE OF NUEVA ECIJA, PETITIONER, VS. EXECUTIVE SECRETARY RUBEN D. TORRES, THE DEPARTMENT OF THE INTERIOR & ...

G.R. No. 131255. May 20, 1998

Ponente: PUNO, J.

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PUNO, J.:

The case at bar involves the validity of the suspension from office of petitioner Eduardo Nonato Joson as Governor of the province of Nueva Ecija. Private respondent Oscar C. Tinio is the Vice-Governor of said province while private respondents Loreto P. Pangilinan, Crispulo S. Esguerra, Solita C. Santos, Vicente C. Palilio and Napoleon G. Interior are members of the Sangguniang Panlalawigan.

On September 17, 1996, private respondents filed with the Office of the President a letter-complaint dated September 13, 1997 charging petitioner with grave misconduct and abuse of authority. Private respondents alleged that in the morning of September 12, 1996, they were at the session hall of the provincial capitol for a scheduled session of the Sangguniang Panlalawigan when petitioner belligerently barged into the Hall; petitioner angrily kicked the door and chairs in the Hall and uttered threatening words at them; close behind petitioner were several men with long and short firearms who encircled the area. Private respondents claim that this incident was an offshoot of their resistance to a pending legislative measure supported by petitioner that the province of Nueva Ecija obtain a loan of P150 million from the Philippine National Bank; that petitioner's acts were intended to harass them into approving this loan; that fortunately, no session of the Sangguniang Panlalawigan was held that day for lack of quorum and the proposed legislative measure was not considered; that private respondents opposed the loan because the province of Nueva Ecija had an unliquidated obligation of more than P70 million incurred without prior authorization from the Sangguniang Panlalawigan; that the provincial budget officer and treasurer had earlier disclosed that the province could not afford to contract another obligation; that petitioner's act of barging in and intimidating private respondents was a serious insult to the integrity and independence of the Sangguniang Panlalawigan; and that the presence of his private army posed grave danger to private respondents' lives and safety. Private respondents prayed for the suspension or removal of petitioner; for an emergency audit of the provincial treasury of Nueva Ecija; and for the review of the proposed loan in light of the financial condition of the province, to wit:

"In this regard, we respectfully request for the following assistance from your good office:

- To immediately suspend Governor N. [sic] Joson considering the actual dangers that we are facing now, and provide adequate police security detail for the Sangguniang Panlalawigan of Nueva Ecija. Should the evidence warrant after investigation, to order his removal from office.

- To conduct an emergency audit of the provincial treasury of Nueva Ecija by the auditors from the Commission on Audit Central Office with adequate police security assistance. Should the evidence so warrant, to file necessary charges against responsible and accountable officers.

- To advise the Philippine National Bank to review the capability of the province of Nueva Ecija to secure more loans and the feasibility of the same in the light of the present financial condition of the province. Or if said loan will be contrary to sound banking practice, recommend its disapproval."^[1]

The letter-complaint was submitted with the joint affidavit of Elnora Escombien and Jacqueline Jane Perez, two (2) employees of the Sangguniang Panlalawigan who witnessed the incident. The letter was endorsed by Congressmen Eleuterio Violago and Pacifico Fajardo of the Second and Third Districts of Nueva Ecija, former Congressman Victorio Lorenzo of the Fourth District, and Mayor Placido Calma, President of the Mayors' League of said province.^[2]

The President acted on the complaint by writing on its margin the following:

"17 Sep 96

To: SILG info Exec. Sec. and Sec. of Justice:

- Noted. There appears no justification for the use of force, intimidation or armed followers in the situation of 12 Sep at the Session Hall. 2. Take appropriate preemptive and investigative actions. 3. BREAK NOT the PEACE.

FIDEL V. RAMOS (Signed)."^[3]

President Ramos noted that the situation of "12 Sep at the Session Hall," i.e., the refusal of the members of the Sangguniang Panlalawigan to approve the proposed loan, did not appear to justify "the use of force, intimidation or armed followers." He thus instructed the then Secretary of the Interior and Local Governments (SILG) Robert Barbers to "[t]ake appropriate preemptive and investigative actions," but to "[b]reak not the peace."

The letter-complaint together with the President's marginal notes were sent to Secretary Robert Z. Barbers on September 20, 1996. Acting upon the instructions of the President, Secretary Barbers notified petitioner of the case against him^[4] and attached to the notice a copy of the complaint and its annexes. In the same notice, Secretary Barbers directed petitioner "to submit [his] verified/sworn answer thereto, not a motion to dismiss, together with such documentary evidence that [he] has in support thereof, within fifteen (15) days from receipt."^[5]

Immediately thereafter, Secretary Barbers proceeded to Nueva Ecija and summoned petitioner and private respondents to a conference to settle the controversy. The parties entered into an agreement whereby petitioner promised to maintain peace and order in the province while private respondents promised to refrain from filing cases that would adversely affect their peaceful co-existence.^[6]

The peace agreement was not respected by the parties and the private respondents reiterated their letter-complaint. Petitioner was again ordered to file his answer to the letter-complaint within fifteen days from receipt. Petitioner received a copy of this order on November 13, 1996. On the same day, petitioner requested for an extension of thirty (30) days to submit his answer because he was "trying to secure the services of legal counsel experienced in administrative law practice."^[7] The Department of the Interior and Local Government (DILG), acting through

Director Almario de los Santos, Officer-In-Charge of the Legal Service, granted the motion, with the thirty-day extension to be reckoned, however, from November 13, 1996, i.e., the day petitioner received the order to answer.[8]

In a letter dated December 9, 1996, petitioner moved for another extension of thirty (30) days to file his answer. He stated that he had already sent letters to various law firms in Metro Manila but that he had not yet contracted their services; that the advent of the Christmas season kept him busy with "numerous and inevitable official engagements." [9] The DILG granted the request for extension "for the last time up to January 13 only." [10]

On January 7, 1997, petitioner requested for another extension of thirty (30) days to file his answer. According to him, the Christmas season kept him very busy and preoccupied with his numerous official engagements; that the law firms he invited to handle his case have favorably replied but that he needed time to confer with them personally; and that during this period, he, with the help of his friends, was exploring the possibility of an amicable settlement of the case. [11] The DILG granted petitioner's request "for the last time" but gave him an extension of only ten (10) days from January 13, 1997 to January 23, 1997. The DILG also informed him that his "failure to submit answer will be considered a waiver and that the plaintiff [shall] be allowed to present his evidence ex-parte." [12]

Petitioner moved for reconsideration of the order. He reiterated his prayer for an extension of thirty (30) days on the following grounds: (a) that he was still in the process of choosing competent and experienced counsel; (b) that some law firms refused to accept his case because it was perceived to be politically motivated; and (c) the multifarious activities, appointments and official functions of his office hindered his efforts to secure counsel of choice. [13]

Three months later, on April 22, 1997, Undersecretary Manuel Sanchez, then Acting Secretary of the DILG, issued an order declaring petitioner in default and to have waived his right to present evidence. Private respondents were ordered to present their evidence ex-parte. The order reads as follows:

"ORDER

It appearing that respondent failed to submit his answer to the complaint despite the grant to him of three (3) extensions, such unreasonable failure is deemed a waiver of his right to present evidence in his behalf pursuant to Section 4, Rule 4 of Administrative Order No. 23 dated December 17, 1992, as amended.

Respondent is hereby declared in default, meanwhile, complainants are directed to present their evidence ex-parte. However, considering the prohibition on the conduct of administrative investigation due to the forthcoming barangay elections, complainants will be notified on the date after the barangay election for them to present their evidence.

SO ORDERED." [14]

Two days later, on April 24, 1997, the law firm of Padilla, Jimenez, Kintanar & Asuncion, representing petitioner, filed with the DILG an "Entry of Appearance with Motion for Time to File Answer Ad Cautelam."

Petitioner received a copy of the order of default on May 2, 1997. Through counsel, he moved for reconsideration. On May 19, 1997, Undersecretary Sanchez reconsidered the order of default in the interest of justice. He noted the appearance of petitioner's counsel and gave petitioner "for the last time" fifteen (15) days from receipt to file his answer. [15]

On June 23, 1997, Undersecretary Sanchez issued an order stating that petitioner's counsel, whose office is in

Manila, should have received a copy of the May 19, 1997 order ten days after mailing on May 27, 1997. Since petitioner still failed to file his answer, he was deemed to have waived his right to present evidence in his behalf. Undersecretary Sanchez reinstated the order of default and directed private respondents to present their evidence ex-parte on July 15, 1997.[16]

The following day, June 24, 1997, petitioner, through counsel, filed a "Motion to Dismiss." Petitioner alleged that the letter-complaint was not verified on the day it was filed with the Office of the President; and that the DILG had no jurisdiction over the case and no authority to require him to answer the complaint.

On July 4, 1997, petitioner filed an "Urgent Ex-Parte Motion for Reconsideration" of the order of June 23, 1997 reinstating the order of default. Petitioner also prayed that the hearing on the merits of the case be held in abeyance until after the "Motion to Dismiss" shall have been resolved. On July 11, 1997, on recommendation of Secretary Barbers, Executive Secretary Ruben Torres issued an order, by authority of the President, placing petitioner under preventive suspension for sixty (60) days pending investigation of the charges against him.[17]

Secretary Barbers directed the Philippine National Police to assist in the implementation of the order of preventive suspension. In petitioner's stead, Secretary Barbers designated Vice-Governor Oscar Tinio as Acting Governor until such time as petitioner's temporary legal incapacity shall have ceased to exist.[18]

Forthwith, petitioner filed a petition for certiorari and prohibition with the Court of Appeals challenging the order of preventive suspension and the order of default.[19]

Meanwhile, the proceedings before the DILG continued. On August 20, 1997, Undersecretary Sanchez issued an order denying petitioner's "Motion to Dismiss" and "Urgent Ex-Parte Motion for Reconsideration." In the same order, he required the parties to submit their position papers within an inextendible period of ten days from receipt after which the case shall be deemed submitted for resolution, to wit:

"WHEREFORE, for lack of merit, both motions are denied. However, for this office to have a better appreciation of the issues raised in the instant case, the parties, through their respective counsels are hereby directed to submit their position papers within a period of ten (10) days from receipt hereof, which period is inextendible, after which the case is deemed submitted for resolution." [20]

On August 27, 1997, petitioner filed with the DILG a "Motion to Lift Order of Preventive Suspension." On September 10, 1997, petitioner followed this with a "Motion to Lift Default Order and Admit Answer Ad Cautelam." [21] Attached to the motion was the "Answer Ad Cautelam" [22] and sworn statements of his witnesses. On the other hand, complainants (private respondents herein) manifested that they were submitting the case for decision based on the records, the complaint and affidavits of their witnesses. [23]

In his Answer Ad Cautelam, petitioner alleged that in the morning of September 12, 1996, while he was at his district office in the town of Munoz, he received a phone call from Sangguniang Panlalawigan member Jose del Mundo. Del Mundo, who belonged to petitioner's political party, informed him that Vice-Governor Tinio was enraged at the members of the Sangguniang Panlalawigan who were in petitioner's party because they refused to place on the agenda the ratification of the proposed P150 million loan of the province. Petitioner repaired to the provincial capitol to advise his party-mates on their problem and at the same time attend to his official functions. Upon arrival, he went to the Session Hall and asked the members present where Vice-Governor Tinio was. However, without waiting for their reply, he left the Hall and proceeded to his office.

Petitioner claimed that there was nothing in his conduct that threatened the members of the Sangguniang Panlalawigan or caused alarm to the employees. He said that like Vice-Governor Tinio, he was always accompanied by his official security escorts whenever he reported for work. He also alleged that the joint affidavit

of Elnora Escombien and Jacqueline Jane Perez was false. Escombien was purportedly not inside the session hall during the incident but was at her desk at the office and could not in any way have seen petitioner in the hall. To attest to the truth of his allegations, petitioner submitted three (3) joint affidavits -- two (2) affidavits executed by six (6) and ten (10) employees, respectively, of the provincial government, and a third by four members of the Sangguniang Panlalawigan.[24]

On September 11, 1997, petitioner filed an "Urgent Motion for Reconsideration" of the order of August 20, 1997 denying his motion to dismiss. The "Urgent Motion for Reconsideration" was rejected by Undersecretary Sanchez on October 8, 1997. Undersecretary Sanchez, however, granted the "Motion to Lift Default Order and to Admit Answer Ad Cautelam" and admitted the "Answer Ad Cautelam" as petitioner's position paper pursuant to the order of August 20, 1997.[25]

On October 15, 1997, petitioner filed a "Motion to Conduct Formal Investigation." Petitioner prayed that a formal investigation of his case be conducted pursuant to the provisions of the Local Government Code of 1991 and Rule 7 of Administrative Order No. 23; and that this be held at the province of Nueva Ecija.[26] On October 29, 1997, petitioner submitted a "Manifestation and Motion" before the DILG reiterating his right to a formal investigation.

In the meantime, on October 24, 1997, the Court of Appeals dismissed petitioner's petition.[27]

Hence this recourse.

The proceedings before the DILG continued however. In an order dated November 11, 1997, the DILG denied petitioner's "Motion to Conduct Formal Investigation" declaring that the submission of position papers substantially complies with the requirements of procedural due process in administrative proceedings.[28]

A few days after filing the petition before this Court, petitioner filed a "Motion for Leave to File Herein Incorporated Urgent Motion for the Issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction." Petitioner alleged that subsequent to the institution of this petition, the Secretary of the Interior and Local Governments rendered a resolution on the case finding him guilty of the offenses charged.[29] His finding was based on the position papers and affidavits of witnesses submitted by the parties. The DILG Secretary found the affidavits of complainants' witnesses to be "more natural, reasonable and probable" than those of herein petitioner Joson's.[30]

On January 8, 1998, the Executive Secretary, by authority of the President, adopted the findings and recommendation of the DILG Secretary. He imposed on petitioner the penalty of suspension from office for six (6) months without pay, to wit:

"WHEREFORE, as recommended by the Secretary of the Interior and Local Government, respondent Nueva Ecija Governor Eduardo Nonato Joson is hereby found guilty of the offenses charged and is meted the penalty of suspension from office for a period of six (6) months without pay."[31]

On January 14, 1998, we issued a temporary restraining order enjoining the implementation of the order of the Executive Secretary.

On January 19, 1998, private respondents submitted a Manifestation informing this Court that the suspension of petitioner was implemented on January 9, 1998; that on the same day, private respondent Oscar Tinio was installed as Acting Governor of the province; and that in view of these events, the temporary restraining order had lost its purpose and effectivity and was *fait accompli*. [32] We noted this Manifestation.

In his petition, petitioner alleges that:

"I THE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT RULES OF PROCEDURE AND

EVIDENCE SHOULD NOT BE STRICTLY APPLIED IN THE ADMINISTRATIVE DISCIPLINARY AND CLEARLY PUNITIVE PROCEEDINGS IN THE CASE AGAINST PETITIONER GOVERNOR EDNO JOSON;

II THE COURT OF APPEALS GRAVELY ERRED IN APPLYING THE ALTER-EGO PRINCIPLE BECAUSE, CONTRARY TO LAW, IT WAS THE SECRETARY OF THE DILG WHO WAS EXERCISING THE POWERS OF THE PRESIDENT WHICH ARE CLEARLY VESTED BY LAW ONLY UPON HIM OR THE EXECUTIVE SECRETARY.

III THE COURT OF APPEALS ERRED IN RULING THAT THE PETITIONER WAS PROPERLY DECLARED IN DEFAULT WHEN HE FILED A MOTION TO DISMISS INSTEAD OF AN ANSWER, AS DIRECTED BY THE DILG, BECAUSE A MOTION TO DISMISS BASED ON JURISDICTIONAL GROUNDS IS NOT A PROHIBITIVE [sic] PLEADING IN ADMINISTRATIVE DISCIPLINARY CASES.

IV THE COURT OF APPEALS ERRED IN RULING THAT THE IMPOSITION OF PREVENTIVE SUSPENSION AGAINST THE PETITIONER WAS PROPER BECAUSE THERE WAS NO JOINDER OF ISSUES YET UPON ITS IMPOSITION AND THERE WAS NO EVIDENCE OF GUILT AGAINST PETITIONER."^[33]

In his "Motion for Leave to File Herein Incorporated Urgent Motion for the Issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction," petitioner also claims that:

"I THE RESOLUTION OF JANUARY 8, 1998 AND THE MEMORANDA ISSUED PURSUANT THERETO (i.e., ANNEXES "C," "D," "E," "F," AND "G" HEREOF) WERE ISSUED WITH UNDUE HASTE, IN VIOLATION OF THE PERTINENT PROVISIONS OF THE 1991 LOCAL GOVERNMENT CODE AND ADMINISTRATIVE ORDER NO. 23, AND IN COMPLETE DISREGARD OF PETITIONER'S CONSTITUTIONAL RIGHT TO DUE PROCESS.

II THE IMPLEMENTATION OF THE INVALID RESOLUTION OF JANUARY 8, 1998 (ANNEX "C" HEREOF) BY THE PUBLIC RESPONDENTS ENTITLES PETITIONER TO THE IMMEDIATE ISSUANCE OF THE TEMPORARY RESTRAINING ORDER/WRIT OF PRELIMINARY INJUNCTION HEREIN PRAYED FOR."^[34]

We find merit in the petition.

Administrative disciplinary proceedings against elective local officials are governed by the Local Government Code of 1991, the Rules and Regulations Implementing the Local Government Code of 1991, and Administrative Order No. 23 entitled "Prescribing the Rules and Procedures on the Investigation of Administrative Disciplinary Cases Against Elective Local Officials of Provinces, Highly Urbanized Cities, Independent Component Cities, and Cities and Municipalities in Metropolitan Manila."^[35] In all matters not provided in A.O. No. 23, the Rules of Court and the Administrative Code of 1987 apply in a suppletory character.^[36]

I

Section 60 of Chapter 4, Title II, Book I of the Local Government Code enumerates the grounds for which an elective local official may be disciplined, suspended or removed from office. Section 60 reads:

"Sec. 60. Grounds for Disciplinary Actions. -- An elective local official may be disciplined, suspended, or removed from office on any of the following grounds:

- (a) Disloyalty to the Republic of the Philippines;

- (b) Culpable violation of the Constitution;
- (c) Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;
- (d) Commission of any offense involving moral turpitude or an offense punishable by at least prison mayor;
- (e) Abuse of authority;
- (f) Unauthorized absence for fifteen (15) consecutive working days, except in the case of members of the sangguniang panlalawigan, sangguniang panlungsod, sangguniang bayan, and sangguniang barangay;
- (g) Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and
- (h) Such other grounds as may be provided in this Code and other laws.

An elective local official may be removed from office on the grounds enumerated above by order of the proper court."

When an elective local official commits an act that falls under the grounds for disciplinary action, the administrative complaint against him must be verified and filed with any of the following:

"Sec. 61. Form and Filing of Administrative Complaints.-- A verified complaint against any erring local elective official shall be prepared as follows:

- (a) A complaint against any elective official of a province, a highly urbanized city, an independent component city or component city shall be filed before the Office of the President.
- (b) A complaint against any elective official of a municipality shall be filed before the sangguniang panlalawigan whose decision may be appealed to the Office of the President; and
- (c) A complaint against any elective barangay official shall be filed before the sangguniang panlungsod or sangguniang bayan concerned whose decision shall be final and executory." [37]

An administrative complaint against an erring elective official must be verified and filed with the proper government office. A complaint against an elective provincial or city official must be filed with the Office of the President. A complaint against an elective municipal official must be filed with the Sangguniang Panlalawigan while that of a barangay official must be filed before the Sangguniang Panlungsod or Sangguniang Bayan.

In the instant case, petitioner Joson is an elective official of the province of Nueva Ecija. The letter-complaint against him was therefore properly filed with the Office of the President. According to petitioner, however, the letter-complaint failed to conform with the formal requirements set by the Code. He alleges that the complaint was not verified by private respondents and was not supported by the joint affidavit of the two witnesses named therein; that private respondents later realized these defects and surreptitiously inserted the verification and sworn statement while the complaint was still pending with the Office of the President. [38] To prove his allegations, petitioner submitted: (a) the sworn statement of private respondent Solita C. Santos attesting to the alleged fact that after the letter-complaint was filed, Vice-Governor Tinio made her and the other members of the Sangguniang Panlalawigan sign an additional page which he had later notarized; and (b) the fact that the verification of the letter-complaint and the joint affidavit of the witnesses do not indicate the document, page or book number of the notarial register of the notary public before whom they were made. [39]

We find no merit in the contention of the petitioner. The absence of the document, page or book number of the notarial register of the subscribing officer is insufficient to prove petitioner's claim. The lack of these entries may constitute proof of neglect on the part of the subscribing officer in complying with the requirements for

notarization and proper verification. They may give grounds for the revocation of his notarial commission.[40] But they do not indubitably prove that the verification was inserted or intercalated after the letter-complaint was filed with the Office of the President.

Nor is the fact of intercalation sufficiently established by the affidavit of Solita C. Santos. Private respondent Santos was one of the signatories to the letter-complaint. In her affidavit, she prayed that she be dropped as one of the complainants since she had just joined the political party of petitioner Joson. She decided to reveal the intercalation because she was disillusioned with the "dirty tactics" of Vice-Governor Tinio to grab power from petitioner Joson.[41] Private respondent Santos cannot in any way be considered an unbiased witness. Her motive and change of heart render her affidavit suspect.

Assuming, nonetheless, that the letter-complaint was unverified when submitted to the Office of the President, the defect was not fatal. The requirement of verification was deemed waived by the President himself when he acted on the complaint.

Verification is a formal, not jurisdictional requisite.[42] Verification is mainly intended to secure an assurance that the allegations therein made are done in good faith or are true and correct and not mere speculation.[43] The lack of verification is a mere formal defect.[44] The court may order the correction of the pleading, if not verified, or act on the unverified pleading if the attending circumstances are such that a strict compliance with the rule may be dispensed with in order that the ends of justice may be served.[45]

II

In his second assigned error, petitioner questions the jurisdiction and authority of the DILG Secretary over the case. He contends that under the law, it is the Office of the President that has jurisdiction over the letter-complaint and that the Court of Appeals erred in applying the alter-ego principle because the power to discipline elective local officials lies with the President, not with the DILG Secretary.

Jurisdiction over administrative disciplinary actions against elective local officials is lodged in two authorities: the Disciplining Authority and the Investigating Authority. This is explicit from A.O. No. 23, to wit: .

"Sec. 2. Disciplining Authority. All administrative complaints, duly verified, against elective local officials mentioned in the preceding Section shall be acted upon by the President. The President, who may act through the Executive Secretary, shall hereinafter be referred to as the Disciplining Authority."

Sec. 3. Investigating Authority. The Secretary of the Interior and Local Government is hereby designated as the Investigating Authority. He may constitute an Investigating Committee in the Department of the Interior and Local Government for the purpose.

The Disciplining Authority may, however, in the interest of the service, constitute a Special Investigating Committee in lieu of the Secretary of the Interior and Local Government."[46]

Pursuant to these provisions, the Disciplining Authority is the President of the Philippines, whether acting by himself or through the Executive Secretary. The Secretary of the Interior and Local Government is the Investigating Authority, who may act by himself or constitute an Investigating Committee.

The Secretary of the DILG, however, is not the exclusive Investigating Authority. In lieu of the DILG Secretary, the Disciplining Authority may designate a Special Investigating Committee.

The power of the President over administrative disciplinary cases against elective local officials is derived from his power of general supervision over local governments. Section 4, Article X of the 1987 Constitution provides:

"Sec. 4. The President of the Philippines shall exercise general supervision over local governments. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays shall ensure that the acts of their component units are within the scope of their prescribed powers and functions."[47]

The power of supervision means "overseeing or the authority of an officer to see that the subordinate officers perform their duties."[48] If the subordinate officers fail or neglect to fulfill their duties, the official may take such action or step as prescribed by law to make them perform their duties.[49] The President's power of general supervision means no more than the power of ensuring that laws are faithfully executed, or that subordinate officers act within the law.[50] Supervision is not incompatible with discipline.[51] And the power to discipline and ensure that the laws be faithfully executed must be construed to authorize the President to order an investigation of the act or conduct of local officials when in his opinion the good of the public service so requires.[52] Thus:

"Independently of any statutory provision authorizing the President to conduct an investigation of the nature involved in this proceeding, and in view of the nature and character of the executive authority with which the President of the Philippines is invested, the constitutional grant to him of power to exercise general supervision over all local governments and to take care that the laws be faithfully executed must be construed to authorize him to order an investigation of the act or conduct of the petitioner herein. Supervision is not a meaningless thing. It is an active power. It is certainly not without limitation, but it at least implies authority to inquire into facts and conditions in order to render the power real and effective. If supervision is to be conscientious and rational, and not automatic and brutal, it must be founded upon a knowledge of actual facts and conditions disclosed after careful study and investigation."[53]

The power to discipline evidently includes the power to investigate. As the Disciplining Authority, the President has the power derived from the Constitution itself to investigate complaints against local government officials. A. O. No. 23, however, delegates the power to investigate to the DILG or a Special Investigating Committee, as may be constituted by the Disciplining Authority. This is not undue delegation, contrary to petitioner Joson's claim. The President remains the Disciplining Authority. What is delegated is the power to investigate, not the power to discipline.[54]

Moreover, the power of the DILG to investigate administrative complaints is based on the alter-ego principle or the doctrine of qualified political agency. Thus:

"Under this doctrine, which recognizes the establishment of a single executive, all executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the Chief Executive is required by the Constitution or law to act in person or the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the Secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive presumptively the acts of the Chief Executive."[55]

This doctrine is corollary to the control power of the President.[56] The power of control is provided in the Constitution, thus:

"Sec. 17. The President shall have control of all the executive departments, bureaus, and offices. He shall ensure that the laws be faithfully executed."[57]

Control is said to be the very heart of the power of the presidency.[58] As head of the Executive Department, the President, however, may delegate some of his powers to the Cabinet members except when he is required by the

Constitution to act in person or the exigencies of the situation demand that he acts personally.[59] The members of Cabinet may act for and in behalf of the President in certain matters because the President cannot be expected to exercise his control (and supervisory) powers personally all the time. Each head of a department is, and must be, the President's alter ego in the matters of that department where the President is required by law to exercise authority.[60]

The procedure how the Disciplining and Investigating Authorities should exercise their powers is distinctly set forth in the Local Government Code and A.O. No. 23. Section 62 of the Code provides:

"Sec. 62. Notice of Hearing.-- (a) Within seven (7) days after the administrative complaint is filed, the Office of the President or the sanggunian concerned, as the case may be, shall require the respondent to submit his verified answer within fifteen (15) days from receipt thereof, and commence investigation of the case within ten (10) days after receipt of such answer of the respondent.

xxx."

Sections 1 and 3, Rule 5[61] of A.O. No. 23 provide:

"Sec. 1. Commencement. Within forty-eight (48) hours from receipt of the answer, the Disciplining Authority shall refer the complaint and answer, together with their attachments and other relevant papers, to the Investigating Authority who shall commence the investigation of the case within ten (10) days from receipt of the same.

"x x x

"Sec. 3. Evaluation. Within twenty (20) days from receipt of the complaint and answer, the Investigating Authority shall determine whether there is a prima facie case to warrant the institution of formal administrative proceedings."

When an administrative complaint is therefore filed, the Disciplining Authority shall issue an order requiring the respondent to submit his verified answer within fifteen (15) days from notice. Upon filing of the answer, the Disciplining Authority shall refer the case to the Investigating Authority for investigation.

In the case at bar, petitioner claims that the DILG Secretary usurped the power of the President when he required petitioner to answer the complaint. Undisputably, the letter-complaint was filed with the Office of the President but it was the DILG Secretary who ordered petitioner to answer.

Strictly applying the rules, the Office of the President did not comply with the provisions of A.O. No. 23. The Office should have first required petitioner to file his answer. Thereafter, the complaint and the answer should have been referred to the Investigating Authority for further proceedings. Be that as it may, this procedural lapse is not fatal. The filing of the answer is necessary merely to enable the President to make a preliminary assessment of the case.[62] The President found the complaint sufficient in form and substance to warrant its further investigation. The judgment of the President on the matter is entitled to respect in the absence of grave abuse of discretion..

III

In his third assigned error, petitioner also claims that the DILG erred in declaring him in default for filing a motion to dismiss. He alleges that a motion to dismiss is not a pleading prohibited by the law or the rules and therefore the DILG Secretary should have considered it and given him time to file his answer.

It is true that a motion to dismiss is not a pleading prohibited under the Local Government Code of 1991 nor in

A.O. No. 23. Petitioner, however, was instructed not to file a motion to dismiss in the order to file answer. Thrice, he requested for extension of time to file his answer citing as reasons the search for competent counsel and the demands of his official duties. And thrice, his requests were granted. Even the order of default was reconsidered and petitioner was given additional time to file answer. After all the requests and seven months later, he filed a motion to dismiss:

Petitioner should know that the formal investigation of the case is required by law to be finished within one hundred twenty (120) days from the time of formal notice to the respondent. The extensions petitioner requested consumed fifty-five (55) days of this period.[63] Petitioner, in fact, filed his answer nine (9) months after the first notice. Indeed, this was more than sufficient time for petitioner to comply with the order to file answer.

The speedy disposition of administrative complaints is required by public service. The efficiency of officials under investigation is impaired when a case hangs over their heads. Officials deserve to be cleared expeditiously if they are innocent, also expeditiously if guilty, so that the business of government will not be prejudiced.[64]

IV

In view of petitioner's inexcusable failure to file answer, the DILG did not err in recommending to the Disciplining Authority his preventive suspension during the investigation. Preventive suspension is authorized under Section 63 of the Local Government Code, viz:

"Sec. 63. Preventive Suspension.-- (a) Preventive suspension may be imposed:

(1) By the President, if the respondent is an elective official of a province, a highly urbanized or an independent component city;

x x x.

(b) Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence; Provided, That, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, That in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension.

x x x."

In sum, preventive suspension may be imposed by the Disciplining Authority at any time (a) after the issues are joined; (b) when the evidence of guilt is strong; and (c) given the gravity of the offense, there is great probability that the respondent, who continues to hold office, could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.

Executive Secretary Torres, on behalf of the President, imposed preventive suspension on petitioner Joson after finding that:

"x x x..

DILG Secretary Robert Z. Barbers, in a memorandum for the President, dated 23 June 1997, recommends that respondent be placed under preventive suspension considering that all the requisites to justify the same are present. He stated therein that:

'Preventive suspension may be imposed at any time after the issues are joined, that is, after respondent has

answered the complaint, when the evidence of guilt is strong and, given the gravity of the offense, there is a great possibility that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence (Sec. 3, Rule 6 of Administrative Order No. 23).

The failure of respondent to file his answer despite several opportunities given him is construed as a waiver of his right to present evidence in his behalf (Sec. 4, Rule 4 of Administrative Order No. 23). The requisite of joinder of issues is squarely met with respondent's waiver of right to submit his answer. The act of respondent in allegedly barging violently into the session hall of the Sangguniang Panlalawigan in the company of armed men constitutes grave misconduct. The allegations of complainants are bolstered by the joint-affidavit of two (2) employees of the Sangguniang Panlalawigan. Respondent who is the chief executive of the province is in a position to influence the witnesses. Further, the history of violent confrontational politics in the province dictates that extreme precautionary measures be taken.'

Upon scrutiny of the records and the facts and circumstances attendant to this case, we concur with the findings of the Secretary of the Interior and Local Government and find merit in the aforesaid recommendation.

WHEREFORE, and as recommended by the Department of the Interior and Local Government, respondent EDUARDO N. JOSON, Governor of Nueva Ecija, is hereby placed under PREVENTIVE SUSPENSION FOR A PERIOD OF SIXTY (60) DAYS, effective 11 July 1997, pending investigation of the charges filed against him.

SO ORDERED."[65]

Executive Secretary Torres found that all the requisites for the imposition of preventive suspension had been complied with. Petitioner's failure to file his answer despite several opportunities given him was construed as a waiver of his right to file answer and present evidence; and as a result of this waiver, the issues were deemed to have been joined. The Executive Secretary also found that the evidence of petitioner Joson's guilt was strong and that his continuance in office during the pendency of the case could influence the witnesses and pose a threat to the safety and integrity of the evidence against him.

V

We now come to the validity of the January 8, 1998 Resolution of the Executive Secretary finding petitioner guilty as charged and imposing on him the penalty of suspension from office for six (6) months from office without pay.

Petitioner claims that the suspension was made without formal investigation pursuant to the provisions of Rule 7 of A.O. No. 23. Petitioner filed a "Motion To Conduct Formal Investigation" three months before the issuance of the order of suspension and this motion was denied by the DILG for the following reasons:

"On November 19, 1997, complainants, through counsel, filed a Manifestation calling our attention to the Decision dated October 24, 1997 of the Court of Appeals, Fifth Division in CA-G.R. SP No. 44694, entitled "Eduardo Nonato Joson versus Executive Secretary Ruben D. Torres, et. al." In the aforesaid decision, the Court of Appeals resolved to sustain the authority of this Department to investigate this administrative case and has likewise validated the order of default as well as the order of preventive suspension of the respondent.

We offer no objection and concur with the assertion of respondent that he has the right for the conduct of formal investigation. However, before there shall be a formal investigation, joinder of issues must already be present or respondent's answer has already been filed. In the case at bar, the admission of respondent's answer after having been declared in default was conditioned on the fact of submission of position papers by the parties, after which, the case shall be deemed submitted for resolution. Respondent, instead of submitting his position paper filed his subject motion while complainants manifested to forego the submission of position paper and submit the case for resolution on the basis of the pleadings on hand.

Settled is the rule that in administrative proceedings, technical rules of procedure and evidence are not strictly applied (*Concerned Officials of the Metropolitan Waterworks and Sewerage System v. Vasquez*, 240 SCRA 502). The essence of due process is to be found in the reasonable opportunity to be heard and to submit evidence one may have in support of one's defense (*Tajonera v. Lamaroza*, 110 SCRA 438). To be heard does not only mean verbal arguments in court; one may be heard also through pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process (*Juanita Y. Say, et. al.; vs. IAC*, G.R. No. 73451). Thus, when respondent failed to submit his position paper as directed and insisted for the conduct of formal investigation, he was not denied of his right of procedural process.

WHEREFORE, the Motion for the Conduct of Formal Investigation, for lack of merit, is DENIED.

SO ORDERED."[66]

The denial of petitioner's Motion to Conduct Formal Investigation is erroneous. Petitioner's right to a formal investigation is spelled out in the following provisions of A.O. No. 23, viz:

"SEC. 3 Evaluation. Within twenty (20) days from receipt of the complaint and answer, the Investigating Authority shall determine whether there is a prima facie case to warrant the institution of formal administrative proceedings.

SEC. 4. Dismissal motu proprio. If the Investigating Authority determines that there is no prima facie case to warrant the institution of formal administrative proceedings, it shall, within the same period prescribed under the preceding Section, submit its recommendation to the Disciplining Authority for the motu proprio dismissal of the case, together with the recommended decision, resolution, and order.

SEC. 5. Preliminary conference. If the Investigating Authority determines that there is prima facie case to warrant the institution of formal administrative proceedings, it shall, within the same period prescribed under the preceding Section, summon the parties to a preliminary conference to consider the following:

- a) whether the parties desire a formal investigation or are willing to submit the case for resolution on the basis of the evidence on record; and
- b) If the parties desire a formal investigation, to consider the simplification of issues, the possibility of obtaining stipulation or admission of facts and of documents, specifically affidavits and depositions, to avoid unnecessary proof, the limitation of number of witnesses, and such other matters as may be aid the prompt disposition of the case.

The Investigating Authority shall encourage the parties and their counsels to enter, at any stage of the proceedings, into amicable settlement, compromise and arbitration, the terms and conditions of which shall be subject to the approval of the Disciplining Authority.

After the preliminary conference, the Investigating Authority shall issue an order reciting the matters taken up thereon, including the facts stipulated and the evidences marked, if any. Such order shall limit the issues for hearing to those not disposed of by agreement or admission of the parties, and shall schedule the formal investigation within ten (10) days from its issuance, unless a later date is mutually agreed in writing by the parties concerned."[67]

The records show that on August 27, 1997, petitioner submitted his Answer Ad Cautelam where he disputed the truth of the allegations that he barged into the session hall of the capitol and committed physical violence to harass the private respondents who were opposed to any move for the province to contract a P150 million loan from PNB. In his Order of October 8, 1997, Undersecretary Sanchez admitted petitioner's Answer Ad Cautelam but treated it as a position paper. On October 15, 1997, petitioner filed a Motion to Conduct Formal Investigation.

Petitioner reiterated this motion on October 29, 1997. Petitioner's motion was denied on November 11, 1997. Secretary Barbers found petitioner guilty as charged on the basis of the parties' position papers. On January 8, 1998, Executive Secretary Torres adopted Secretary Barbers' findings and recommendations and imposed on petitioner the penalty of six (6) months suspension without pay.

The rejection of petitioner's right to a formal investigation denied him procedural due process. Section 5 of A. O. No. 23 provides that at the preliminary conference, the Investigating Authority shall summon the parties to consider whether they desire a formal investigation. This provision does not give the Investigating Authority the discretion to determine whether a formal investigation would be conducted. The records show that petitioner filed a motion for formal investigation. As respondent, he is accorded several rights under the law, to wit:

"Sec. 65. Rights of Respondent. -- The respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witnesses and the production of documentary evidence in his favor through compulsory process of subpoena or subpoena duces tecum."

An erring elective local official has rights akin to the constitutional rights of an accused.[68] These rights are essentially part of procedural due process.[69] The local elective official has the (1) right to appear and defend himself in person or by counsel; (2) the right to confront and cross-examine the witnesses against him; and (3) the right to compulsory attendance of witness and the production of documentary evidence. These rights are reiterated in the Rules Implementing the Local Government Code[70] and in A.O. No. 23.[71] Well to note, petitioner formally claimed his right to a formal investigation after his Answer Ad Cautelam has been admitted by Undersecretary Sanchez.

Petitioner's right to a formal investigation was not satisfied when the complaint against him was decided on the basis of position papers. There is nothing in the Local Government Code and its Implementing Rules and Regulations nor in A.O. No. 23 that provide that administrative cases against elective local officials can be decided on the basis of position papers. A.O. No. 23 states that the Investigating Authority may require the parties to submit their respective memoranda but this is only after formal investigation and hearing.[72] A.O. No. 23 does not authorize the Investigating Authority to dispense with a hearing especially in cases involving allegations of fact which are not only in contrast but contradictory to each other. These contradictions are best settled by allowing the examination and cross-examination of witnesses. Position papers are often-times prepared with the assistance of lawyers and their artful preparation can make the discovery of truth difficult. The jurisprudence cited by the DILG in its order denying petitioner's motion for a formal investigation applies to appointive officials and employees. Administrative disciplinary proceedings against elective government officials are not exactly similar to those against appointive officials. In fact, the provisions that apply to elective local officials are separate and distinct from appointive government officers and employees. This can be gleaned from the Local Government Code itself.

In the Local Government Code, the entire Title II of Book I of the Code is devoted to elective officials. It provides for their qualifications and election,[73] vacancies and succession,[74] local legislation,[75] disciplinary actions,[76] and recall.[77] Appointive officers and employees are covered in Title III of Book I of the Code entitled "Human Resources and Development." All matters pertinent to human resources and development in local government units are regulated by "the civil service law and such rules and regulations and other issuances promulgated thereto, unless otherwise provided in the Code." [78] The "investigation and adjudication of administrative complaints against appointive local officials and employees as well as their suspension and removal" are "in accordance with the civil service law and rules and other pertinent laws," the results of which "shall be reported to the Civil Service Commission." [79]

It is the Administrative Code of 1987, specifically Book V on the Civil Service, that primarily governs appointive officials and employees. Their qualifications are set forth in the Omnibus Rules Implementing Book V of the said Code. The grounds for administrative disciplinary action in Book V are much more in number and are specific than those enumerated in the Local Government Code against elective local officials.[80] The disciplining authority in such actions is the Civil Service Commission[81] although the Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities are also given the power to investigate and decide disciplinary actions against officers and employees under their jurisdiction.[82] When a complaint is filed and the respondent answers, he must "indicate whether or not he elects a formal investigation if his answer is not considered satisfactory." [83] If the officer or employee elects a formal investigation, the direct evidence for the complainant and the respondent "consist[s] of the sworn statement and documents submitted in support of the complaint and answer, as the case may be, without prejudice to the presentation of additional evidence deemed necessary x x x, upon which the cross-examination by respondent and the complainant, respectively, is based." [84] The investigation is conducted without adhering to the technical rules applicable in judicial proceedings. [85] Moreover, the appointive official or employee may be removed or dismissed summarily if (1) the charge is serious and the evidence of guilt is strong; (2) when the respondent is a recidivist; and (3) when the respondent is notoriously undesirable. [86]

The provisions for administrative disciplinary actions against elective local officials are markedly different from appointive officials. [87] The rules on the removal and suspension of elective local officials are more stringent. The procedure of requiring position papers in lieu of a hearing in administrative cases is expressly allowed with respect to appointive officials but not to those elected. An elective official, elected by popular vote, is directly responsible to the community that elected him. The official has a definite term of office fixed by law which is relatively of short duration. Suspension and removal from office definitely affects and shortens this term of office. When an elective official is suspended or removed, the people are deprived of the services of the man they had elected. Implicit in the right of suffrage is that the people are entitled to the services of the elective official of their choice. [88] Suspension and removal are thus imposed only after the elective official is accorded his rights and the evidence against him strongly dictates their imposition.

IN VIEW WHEREOF, the Resolution of January 8, 1998 of the public respondent Executive Secretary is declared null and void and is set aside. No Cost.

SO ORDERED.

Regalado, (Chairman), Melo, Mendoza, and Martinez, JJ., concur.

[1] Letter-complaint, Annex "E" to the Petition, Rollo, pp. 80-81.

[2] Cover-page of Letter-complaint, Annex "D" to the Petition, Rollo, pp. 78-79.

[3] Annex "E" to the Petition, Rollo, p. 80.

[4] The complaint was docketed as DILG Administrative Case No. P-02-96.

[5] Order dated September 20, 1996, Annex "H" to the Petition, Rollo, p. 85.

[6] Motion to Dismiss of Petitioner Joson, Annex "O" to the Petition, Rollo, p. 107.

[7] DILG Records, pp. 148, 149.

- [8] DILG Records, p. 188.
- [9] DILG Records, p. 160.
- [10] DILG Records, p. 187.
- [11] DILG Records, p. 169.
- [12] DILG Records, p. 186.
- [13] DILG Records, p. 184.
- [14] Annex "J" to the Petition, Rollo, p. 88.
- [15] Annex "N" to the Petition, Rollo, pp. 101-102.
- [16] Order, Annex "P" to the Petition, Rollo, pp. 114-115.
- [17] Order dated July 11, 1997, Annex "T" to the Petition, Rollo, pp. 125-126.
- [18] Memoranda of Secretary Barbers, Annexes "U," "V," and "W" to the Petition, Rollo, pp. 127-129.
- [19] CA-G.R. SP No. 44694.
- [20] Order dated August 20, 1997, Annex "Z" to the Petition, Rollo, pp. 175-177.
- [21] Annex "AA" to the Petition, Rollo, pp. 178-181.
- [22] Annex "AA-1" to the Petition, Rollo, pp. 182-187.
- [23] Resolution of the Executive Secretary suspending Governor Joson, Annex "C" to the Motion for Leave to File Herein Incorporated Urgent Motion for the Issuance of a TRO and/or Writ of preliminary Injunction, p. 3, Rollo, p. 246.
- [24] Annexes "II," "JJ," and "KK," to the Petition, Rollo, pp. 209- 212.
- [25] Order dated October 8, 1997, Annex "DD" to the Petition, Rollo, p. 201.
- [26] Annex "CC" to the Petition, Rollo, pp. 195-200.
- [27] The Decision was penned by Associate Justice Portia Alino-Hormachuelos and concurred by Associate Justices Emeterio Cui and Buenaventura Guerrero.
- [28] Annex "A" to the Motion for Leave to File Herein Incorporated Urgent Motion for the Issuance of TRO and/or Writ of Preliminary Injunction, Rollo, pp. 239-242.
- [29] The Resolution reads: "x x x. The complained acts tested against the foregoing, we find respondent to be liable for the acts complained of and consequently, must be sanctioned administratively." (Resolution of the Executive Secretary quoting the Resolution of the DILG Secretary, pp. 4-5, Rollo, pp 247-248).
- [30] Resolution of the Executive Secretary, p. 3, Rollo, p. 246.
- [31] Order of Executive Secretary Ruben Torres, Annex "C" to the Motion for Leave to File Herein Incorporated Urgent Motion for the Issuance of a TRO and/or a Writ of Preliminary Injunction" Rollo, pp. 244-248.
- [32] Rollo, pp. 289- 291.
- [33] Petition, pp. 16-17, Rollo, pp. 26-27.

[34] Motion for Leave to File Herein Incorporated Urgent Motion for the Issuance, etc., pp. 6-7, Rollo, pp. 226-227.

[35] Issued by President Ramos on December 17, 1992 and took effect in February 1993. This has been amended by A.O. No. 159, Nov. 25, 1994.

[36] Section 1, Rule 13, A.O. No. 23.

[37] Local Government Code of 1991.

[38] Petition, pp. 19, 21, Rollo, pp. 29, 31.

[39] Petition, pp. 22-23, Rollo, pp. 32-33.

[40] Section 249 in relation to Section 246, Article II, Chapter 11, Title IV, Book II, Revised Administrative Code.

[41] Annex "FF" to the Petition, Rollo, p. 206.

[42] *Vda. de Gabriel v. Court of Appeals*, 264 SCRA 137, 143 [1996]; *Sy v. Habacon-Garayblas*, 228 SCRA 644, 647 [1993]; *Oshita v. Republic*, 19 SCRA 700, 702 [1967].

[43] *Id.*

[44] *Buenaventura v. Halili-Uy*, 149 SCRA 22, 26 [1987]; *Quimpo v. de la Victoria*, 46 SCRA 139, 145 [1972]; *Oshita v. Republic*, 19 SCRA 700 [1967].

[45] *Buenaventura v. Halili-Uy*, *supra*, at 26; *Oshita v. Republic*, *supra*, at 703.

[46] Sections 2 and 3, A.O. No. 23 as amended by A.O. No. 159 which took effect on November 25, 1994.

[47] The President's power of supervision over local governments was taken from Section 10 (1), Article VII of the 1935 Constitution which reads:

"Section 10 (1). The President shall have control of all the executive departments, bureaus, or offices, exercise general supervision over all local governments as may be provided by law, and take care that the laws be faithfully executed."

The 1935 Constitution lumped both the power of control and supervision in one provision. The 1987 Constitution carries the two powers in separate provisions.

[48] *Ganzon v. Court of Appeals*, 200 SCRA 271, 283-284 [1991]; *Mondano v. Silvosa*, 97 Phil. 143, 147 [1955].

[49] *Mondano v. Silvosa*, *supra*, at 147-148.

[50] Bernas, the 1987 Constitution of the Republic of the Philippines: A Commentary, pp. 968-969 [1996] III Record of the Constitutional Commission 451-452, 453-454.

[51] *Ganzon v. Court of Appeals*, *supra*, at 283.

[52] *Hebron v. Reyes*, 104 Phil. 175, 186-189 [1958]; *Ganzon v. Kayanan*, 104 Phil. 483, 488-489 [1958]; also cited in *Martin*, the Revised Administrative Code, vol. 1, pp. 299-301 [1961].

[53] *Planas v. Gil*, 67 Phil. 62, 77-78 [1939]; see also *Villena v. Secretary of the Interior*, 67 Phil. 451, 459 [1939].

[54] *Pimentel*, The Local Government Code of 1991, p. 173. [1993].

[55] *Carpio v. Executive Secretary*, 206 SCRA 290, 295-296 [1992].

[56] *Id.*, at 295.

[57] Section 17, Article VII, 1987 Constitution.

[58] *Carpio v. Executive Secretary*, *supra*, at 295.

[59] *Id.*

[60] *Villena v. Secretary of the Interior*, 67 Phil. 451, 464 [1939].

[61] Rule 5 is entitled "Preliminary Investigation."

[62] See *Pimentel*, *supra*, at 174 -- "[T]he Office of the President may conduct a preliminary assessment of the case."

[63] He was granted three extensions or a total of 60 days less fifteen (15) days -- fifteen days because his first extension of 30 days was counted from the time he received a copy of the complaint, not from the time the first 15-day period expired.

[64] *Id.*

[65] Annex "T" to the Petition, Rollo, pp. 125-126.

[66] Order of Undersecretary Sanchez, Annex "A" to the Motion for Leave to File Herein Incorporated Motion for the Issuance of a TRO and/or a Writ of Preliminary Injunction, Rollo, pp. 241-242.

[67] Sections 3 to 5, Rule 5, A.O. No. 23.

[68] Section 14 (2), Bill of Rights, 1987 Constitution.

[69] See Section 1, Rule 7, A.O. No. 23.

[70] Article 129.

[71] Section 1, Rule 7.

[72] Section 13, Rule 7, A.O. No. 23.

[73] Chapter 1.

[74] Chapter 2.

[75] Chapter 3.

[76] Chapter 4.

[77] Chapter 5.

[78] Section 78, Title III, Book I, Local Government Code of 1991.

[79] Section 84, *Id.*

[80] Section 46, Chapter 6, Book V of the Administrative Code of 1987 lists 30 grounds for the suspension or dismissal of an officer or employee in the Civil Service.

[81] Section 47 (1), *Id.*

[82] Section 47, (2), Id.

[83] Section 48 (2), Id.

[84] Section 48 (5), Id.

[85] Section 48 (7), Id.

[86] Section 50, Id.

[87] *Nera v. Garcia and Elicano*, 106 Phil. 1031, 1037 [1960].

[88] *Nera v. Garcia and Elicano*, *supra*; see also *Layno, Sr. v. Sandiganbayan*, 136 SCRA 536, 541 [1985].

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