EDUARDO N. ATIENZA,PETITIONER, HONORABLE COURT OF APPEALS, MARITIME INDUSTRY AUTHORITY AND ENRICO EULOGIO, RESPONDENTS.

G.R. NO. 138525. July 20, 2006

Ponente: CORONA, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-138525/

CORONA, J.:

In this petition for certiorari,[1] petitioner questions the Court of Appeals' decision[2] and resolution[3] in CA-G.R. SP No. 47257 which found no grave abuse of discretion on the part of respondent Maritime Industry Authority (MARINA) in holding him guilty of misrepresentation (for which an administrative fine of P10,000 was imposed) and in denying his motion for extension or renewal of his provisional authority to operate the passenger vessel M/V ACE-1.

The facts follow.

Petitioner was the general manager of Manila Ace Shipping Lines. M/V ACE-1 was a passenger vessel registered in his name with the First Coast Guard District in Manila[4] with Certificate of Ownership No. 89-0003 and Certificate of Philippine Register No. ICGD-89-00007.

M/V ACE-1 was mortgaged to Far East Bank and Trust Company (FEBTC) but was released therefrom on September 27, 1994 when petitioner sold it to private respondent Eulogio. It was the latter who settled the loan with FEBTC. According to the factual findings of MARINA,[5] petitioner forthwith delivered the vessel's documents to private respondent.

Sometime later, petitioner, notwithstanding the fact that he had sold the vessel to private respondent, sought to transfer its homeport from Manila to Batangas province. The records do not show how he was able to do it (without the documents already delivered to private respondent) but petitioner succeeded in registering the vessel in his name with the Fifth Coast Guard District in Batangas City. He was in fact issued Certificate of Ownership No. 94-0056 and Certificate of Philippine Register No. 5CGD-940059.

In 1994, certain functions of the Philippine Coast Guard were ceded by administrative fiat to MARINA. Petitioner went to the Batangas Maritime Regional Office (MARINA's regional office in Batangas) and asked for the re-issuance by MARINA of the vessel's Philippine Coast Guard certificates. He claimed that the certificates issued by the First Coast Guard District in Manila had been lost. Instead, petitioner submitted the documents issued to him by the Fifth Coast Guard District in Batangas City. Once more, he was able to pull off the caper and on December 29, 1994, the Batangas Maritime Regional Office issued certificates of ownership, vessel registry and inspection for M/V ACE-1. This time, Manila Ace Shipping Lines, instead of petitioner, appeared as the owner in the documents.[6]

On July 27, 1995, private respondent Enrico Eulogio presented to the MARINA Domestic Shipping Office the documents issued by the First Coast Guard District in Manila which petitioner had claimed were "lost." He

wanted new certificates in the name of petitioner but re-issued by MARINA (preparatory to transferring title to the vessel in his name). Since the papers were in order, certificates of ownership and vessel registry were re-issued by MARINA in the name of petitioner on July 28, 1995.

Shortly after, private respondent sought to register M/V ACE-1 in his name.[7] He presented the newly re-issued MARINA certificates[8] and a deed of sale between petitioner and himself. On August 4, 1995, the transfer was effected and the certificates of ownership and vessel registry were issued in the name of private respondent.

When petitioner's misrepresentation regarding the "loss" of the Coast Guard-issued certificates[9] was discovered, Case No. 95-120[10] was filed against him. MARINA issued an order directing him to show cause why he should not be subjected to punitive action. He was also required to explain his failure to disclose that M/V ACE-1 had been previously mortgaged to FEBTC and, in fact, was sold to private respondent when he could not settle his liabilities to FEBTC.

On February 7, 1997, petitioner was found guilty of misrepresentation and was imposed an administrative fine of P25,000 pursuant to Memorandum Circular No. 50-A.[11] The vessel's documents re-issued in the name of Manila Ace Shipping Lines by the Batangas Maritime Regional Office on December 29, 1994 were cancelled. On the other hand, those issued by MARINA to private respondent Enrico Eulogio were recognized as valid and operative.[12]

On May 14, 1997, petitioner's motion for reconsideration was denied but his fine was reduced to P10,000 pursuant to Memorandum Circular No. 109.[13] Petitioner moved for another reconsideration which was denied on June 17, 1997. Another request to reconsider was made but it was not acted upon.

Despite the cancellation of his certificates by the Batangas Maritime Regional Office, petitioner filed with MARINA a motion for extension or renewal of his provisional authority to operate the vessel.[14] It was denied on January 9, 1998 and petitioner's application for a certificate of public convenience was dismissed without prejudice.[15]

Via a petition for certiorari under Rule 65 of the Rules of Court in the Court of Appeals, petitioner sought to annul MARINA's February 7, 1997 decision, May 14, 1997 resolution and January 9, 1998 order. The petition was dismissed, however, on the ground that appeal was the appropriate legal remedy. Since petitioner failed to avail of this remedy, the assailed decision in MARINA Case No. 95-120 had become final and executory.[16] The motion for reconsideration was denied.[17] Hence, this recourse.[18]

At the outset, this petition must be dismissed on procedural grounds. What petitioner should have filed was a petition for review under Rule 45 of the Rules of Court, not a petition for certiorari under Rule 65.[19]

Where appeal is available, an action for certiorari is improper. Certiorari is not a substitute for a lost appeal, especially if one's own negligence or error in one's choice of remedy occasioned such loss. One of the requisites of certiorari is that there is no available appeal or any plain, speedy and adequate remedy. Where an appeal is available, certiorari will not prosper even if the ground therefor is grave abuse of discretion.[20]

In any case, we hold that the Court of Appeals did not commit grave abuse of discretion in affirming MARINA's findings: (a) holding petitioner liable for a fine of P10,000 under Memorandum Circular No. 109 and (b) denying petitioner's motion for extension or renewal of his provisional authority to operate the vessel.

First, the findings of MARINA are to be accorded great weight since MARINA is the government agency entrusted with the regulation of activities coming under its special and technical expertise. The exercise of administrative discretion is a policy decision and a matter that can best be discharged by it, being the government

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

agency concerned.

MARINA held petitioner liable under Memorandum Circular No. 50-A.[21] Memorandum Circular No. 109,[22] which deals specifically with misrepresentations relating to vessel registration, licensing and documentation, did not alter or modify that finding of culpability but only provided for a lower fine, that is, from P25,000 to P10,000. Since Memorandum Circular No. 109 was more favorable to petitioner, MARINA applied it retroactively to him.

Petitioner was accorded due process. MARINA's finding of misrepresentation had legal basis. He was given full opportunity to explain why no punitive action should be taken against him. There was nothing in the May 14, 1997 resolution that changed the character of the offense with which petitioner was charged and subsequently held liable for. The fine of P10,000, therefore, was because of the misrepresentation for which he was tried and of which he was found guilty.

Second, the denial of petitioner's motion for extension or renewal of his provisional authority to operate the vessel was correct. It was a logical consequence of MARINA's cancellation of the certificates of ownership and vessel registry issued by the Batangas Maritime Regional Office and which was based on petitioner's misrepresentation. No authority to operate a vessel can be granted independently of a certificate of ownership and vessel registry.

All told, we hold that the Court of Appeals' assailed decision and resolution did not proceed from a capricious or whimsical exercise of judgment amounting to grave abuse of discretion. The petition in the Court of Appeals was deficient in both substance and procedure.

WHEREFORE, the petition is hereby DISMISSED.

Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

---

[1] Under Rule 65 of the Rules of Court.

[2] Penned by Associate Justice Hilarion L. Aquino (now retired) and concurred in by Associate Justices Arturo B. Buena (a retired Associate Justice of this Court) and Ramon U. Mabutas, Jr. (now retired) of the First Division of the Court of Appeals, dated August 18, 1998; rollo, pp. 22-34.

[3] Penned by Associate Justice Hilarion L. Aquino (now retired) and concurred in by Associate Justices Ramon U. Mabutas, Jr. (now retired) and Eloy R. Bello, Jr. of the Former First Division of the Court of Appeals, dated March 1, 1999; rollo, p. 37.

[4] Of the Philippine Coast Guard.

[5]Rollo, p. 47.

[6] Rollo, pp. 24-25.

[7] On August 2, 1995, CA decision, rollo, p. 25.

[8]Certificates of ownership and vessel registry in the name of petitioner dated July 28, 1995.

[9] Vessel documents issued by the First Coast Guard District in Manila.

[10] Entitled "Maritime Industry Authority v. Eduardo Atienza."

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

[11]"Any person who gives false or misleading data or information or willfully or through gross negligence, conceals or falsifies a material fact, in any investigation, inquiry or hearing shall be held liable for an administrative fine of not more than P25,000.00..."

[12]MARINA did not pass on the issues of ownership of the vessel and validity of the deed of sale since it is not within its competence to do so.

[13] Schedule of Penalties and/or Administrative Fines Relative to Vessel Registration / Licensing / Documentation and Vessel Safety Regulation; rollo, pp. 64-70.

[14] This motion was filed in Case No. BMRO 93-045 which was petitioner's application for the issuance of a franchise or certificate of public convenience.

[15] MARINA found the motion for extension or renewal of provisional authority to operate the vessel as moot and academic in view of the cancellation of the certificates issued by the Batangas Maritime Regional Office.

[16] As quoted in the CA decision; rollo, pp. 29-30.

[17] Rollo, p. 37.

[18] Per Manifestations dated July 20, 2000 and May 18, 2001 by private respondent's counsel, Atty. Danilo Cariaga, private respondent waived his right to file a comment to the petition for review and memorandum in light of the amicable settlement entered into between him and petitioner; rollo, pp. 129-136. MARINA issued to petitioner a provisional authority to operate the vessel, MV ACE-1 on April 7, 2000. Private respondent's manifestation was confirmed by petitioner in an undated pleading. In addition, petitioner stated that he is now the registered owner of MV ACE-1; rollo, pp. 144-145. The Office of the Solicitor General filed the comment and memorandum for respondent MARINA.

[19]Records show that the notice of the Court of Appeals' denial of petitioner's motion for reconsideration was received on March 22, 1999 while this petition was filed on May 21, 1999, clearly beyond the 15-day reglementary period for filing an appeal.

[20] David v. Cordova, G.R. No. 152992, 28 July 2005, 464 SCRA 384.

[21] In effect at the time of the misrepresentation.

[22]Issued subsequent to the commission of misrepresentation.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.