PO3 WILLIAM M. MENDOZA, PETITIONER, VS. NATIONAL POLICE COMMISSION, REGIONAL APPELLATE BOARD AND THE DISTRICT DIRECTOR, SOUTHERN POLICE DISTRICT, PHILIPPINE NATIONAL POLICE, RES...

G.R. NO. 139658. June 21, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us for resolution is a petition for review on certiorari[1] assailing the Decision[2] dated August 12, 1999 of the Court of Appeals in CA-G.R. SP No. 46387, entitled "The National Police Commission (NAPOLCOM) Regional Appellate Board (RAB) and District Director, Southern Police District, Philippine National Police (PNP), Petitioners, versus Hon. Fernando B. Gorospe, Presiding Judge, Regional Trial Court of Makati City, Branch 61, and PO3 William M. Mendoza, Respondents."

This case stemmed from the affidavit-complaint for illegal arrest, illegal detention, physical injuries, and robbery filed by Teodoro V. Conti against PO3 William M. Mendoza, now petitioner, and PO2 Angelita Ramos. Both were members of the Philippine National Police (PNP).

On the basis of the complaint, P/Chief Superintendent Orlando H. Macaspac, then District Director of the PNP Southern Police District Office (SPDO), National Capital Region, administratively charged petitioner and PO2 Ramos with grave misconduct quoted as follows:

> "That on or about 2:30 a.m., 21 February 1993, inside the HI-PITCH Disco Club located at Roxas Boulevard, Pasay City, two (2) above-named respondents forcibly arrested one Teodoro Conti y Viceran, Floor Manager of Nikko's Music Lounge and at gunpoint brought the victim to the Office of the District Special Operations Unit (DSOU). While inside said Office, PO2 RAMOS ordered the victim to remove his gold necklace, then forced him to swallow it. When the victim resisted, PO2 RAMOS struck him with the butt of the gun and subsequently inserted the barrel of the gun to the mouth of the victim. Thereafter, both the above-named respondents mauled the victim, thereby inflicting multiple injuries on the face of the latter. Furthermore, the respondents placed the victim inside a detention cell and took his money amounting to NINE HUNDRED SEVENTY PESOS (P970.00), including three (3) pieces of jewelry: gold necklace, wrist watch, and gold bracelet."

Petitioner and PO2 Ramos submitted their joint-affidavit denying the charge.

On April 15, 1993, after conducting a summary proceeding, PNP Regional Director Oscar T. Aquino rendered a Decision finding the two policemen guilty as charged and ordering their dismissal from the service.

Claiming that they were denied due process, the two police officers interposed an appeal to the Regional Appellate Board (RAB) of the National Police Commission (NAPOLCOM), National Capital Region.

On August 23, 1993, the RAB rendered its Decision affirming the Decision of the PNP Regional Director.

Petitioner then filed a motion for reconsideration on the ground that he "was not able to participate in the clarificatory hearing." However, the RAB, in its Resolution dated December 17, 1993, denied his motion for lack of merit.

Thereafter, petitioner filed with the Regional Trial Court (RTC), Branch 61, Makati City a petition for certiorari, docketed as Special Civil Case No. 96-074. In his petition, he alleged that he was denied due process and prayed that the RAB Decision dated August 23, 1993 and Resolution dated December 17, 1993 be annulled.

The RAB, through the Office of the Solicitor General (OSG), filed a motion to dismiss the petition, contending that petitioner failed to exhaust all administrative remedies; that before seeking judicial intervention, he should have first appealed the RAB Decision to the Secretary of the Department of the Interior and Local Government (DILG), then to the Civil Service Commission (CSC); and that contrary to petitioner's claim, he was accorded due process during the administrative proceedings before the RAB.

In its Order dated April 21, 1997, the RTC denied petitioner's motion to dismiss for lack of merit, holding that "as an exception to the rule on non-exhaustion of administrative remedies, a party may go directly to the court where x x x the controverted acts were allegedly performed without or in excess of jurisdiction for utter disregard of due process."[3]

The RAB filed a motion for reconsideration but was denied by the RTC in an Order dated September 26, 1997.

Thereafter, the RAB, again assisted by the OSG, filed with the Court of Appeals a petition for certiorari[4] alleging that the RTC, in denying the motion to dismiss, committed grave abuse of discretion amounting to lack or in excess of jurisdiction. Despite due notice, herein petitioner did not file his comment thereon.

In its Decision, the Court of Appeals granted the petition and dismissed Special Civil Action No. 96-074 filed with the RTC.

Without filing a motion for reconsideration, petitioner filed with this Court the instant petition for review on certiorari.

Petitioner contends that the Court of Appeals, in rendering its challenged Decision, "committed grave error of law" in dismissing Special Civil Action No. 96-074 on the ground that he failed to exhaust all administrative remedies.

The petition must fail.

It is significant to note that petitioner, as stated earlier, did not file his comment on the RAB's petition for certiorari before the Court of Appeals. And when the said court rendered the assailed Decision granting the petition and dismissing petitioner's petition in Special Civil Action No. 96-074, he again did not interpose a motion for reconsideration thereof. He did not even explain why he failed to do so. Certainly, this is not the normal actuation of a party who claims so aggrieved by an adverse court decision. Such omissions by petitioner indicate that his cause lacks merit and his appeal is frivolous.

The importance of a motion for reconsideration cannot be overemphasized. We have held that such motion is a "plain," "speedy," and "adequate remedy" in the ordinary course of judicial proceedings.[5] The filing of a motion for reconsideration will give the court the opportunity to either (a) correct the error/s imputed to it or (b) clarify and strengthened its ruling on the issue and hopefully convince the movant of his wrong position. In either case, the controversy ends right there, thus preventing unnecessary and premature resort to appellate proceedings.[6] Consequently, we cannot countenance petitioner's disregard of this procedural norm and frustrate its purpose of attaining speedy, inexpensive, and orderly judicial proceedings.

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Coming now to the merits of the case, Section 45 of Republic Act No. 6975, otherwise known as "The Department of the Interior and Local Government Act of 1990," provides:

> "SEC. 45. Finality of Disciplinary Action. – The disciplinary action imposed upon a member of the PNP shall be final and executory; Provided, That a disciplinary action imposed by the Regional Director or by the PLEB involving demotion or dismissal from the service may be appealed to the Regional Appellate Board within ten (10) days from receipt of the copy of the notice of decision: Provided, further, That the disciplinary action imposed by the Chief of the PNP involving demotion or dismissal may be appealed to the National Appellate Board within ten (10) days from receipt thereof: Provided, furthermore, That, the Regional or National Appellate Board, as the case may be, shall decide the appeal within sixty (60) days from receipt of the notice of appeal: Provided, finally, That failure of the Regional Appellate Board to act on the appeal within said period shall render the decision final and executory without prejudice, however, to the filing of an appeal by either party with the Secretary." (Underscoring supplied)

It is clear from the above provisions that the Decision of the PNP Regional Director imposing upon a PNP member the administrative penalty of dismissal from the service is appealable to the RAB. From the RAB Decision, the aggrieved party may then appeal to the Secretary of the DILG.

Here, petitioner did not interpose an appeal to the DILG Secretary.

It bears emphasis that in the event the Secretary renders an unfavorable decision, petitioner may still elevate his case to the Civil Service Commission.

Section 6, Article XVI of the Constitution provides that the State shall establish and maintain one police force which shall be civilian in character. Consequently, the PNP falls under the civil service pursuant to Section 2(1), Article IX-B, also of the Constitution, which states:

> "Section 2. (1). The civil service embraces all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters."

Corollarily, Section 91 of the DILG Act of 1990 provides:

> "SEC. 91. Application of Civil Service Laws. – The Civil Service Law and its implementing rules and regulations shall apply to all personnel of the Department [DILG]."

Section 47 of the Civil Service Law[7] provides inter alia that in cases where the decision rendered by a bureau or office is appealable to the Civil Service Commission, the same may initially be appealed to the Department and finally to the Commission.

Petitioner's failure to exhaust all administrative remedies is fatal to his cause. It is elementary that where, as here, a remedy is available within the administrative machinery, this should first be resorted to.[8]

We thus find that the Court of Appeals, in its assailed Decision, did not commit a reversible error.

WHEREFORE, the instant petition for review on certiorari is hereby DENIED. The challenged Decision dated August 12, 1999 of the Court of Appeals in CA-G.R. SP No. 46387 is AFFIRMED. Costs against petitioner.

SO ORDERED.

Panganiban, (Chairman), Corona, Carpio-Morales, and Garcia, JJ., concur.

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[1] Filed under Rule 45, 1997 Rules of Civil Procedure, as amended.

[2] Penned by Justice Artemon D. Luna and concurred in by Justice Bernardo P. Abesamis and Justice Candido V. Rivera, all retired.

[3] Rollo at 19-20.

[4] Docketed as CA-G.R. SP No. 46387.

[5] See Metro Transit Organization, Inc. vs. Court of Appeals, G.R. No. 142133, November 19, 2002, 392 SCRA 229; Mayor Edgardo G. Flores vs. Sangguniang Panlalawigan of Pampanga, et al., G.R. No. 159022, Febraury 21, 2005.

[6] Yau vs. Manila Banking Corporation, G.R. No. 126731, July 11, 2002, 384 SCRA 340.

[7] Book V (Subtitle A), Administrative Code of 1987.

[8] Lopez vs. City of Manila, G.R. No. 127139, February 19, 1999; Aquino vs. Mariano, G.R. No. L-30485, May 31, 1984.

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