ABELARDO C. RIVAS, PETITIONER, VS. JESUS C. SISON AND ARMIDA P. E. SIGUION REYNA, IN THEIR CAPACITY AS FORMER CHAIRMAN AND PRESENT CHAIRMAN OF THE MOVIE AND TELEVISION REVIEW AN...

G.R. NO. 140839. May 26, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

This resolves the petition for review on certiorari seeking to set aside the Decision[1] of the Court of Appeals (CA) dated September 24, 1999 denying the petition for review in CA-G.R. No. 52341 and the Resolution dated November 16, 1999 denying petitioner's motion for reconsideration of the aforementioned decision.

After a scrutiny of the records, the Court finds the respondents' narration of the antecedent facts to be undisputed, hence, the pertinent portion of respondents' Comment is reproduced hereunder:

> In 1996, the MTRCB and the National Bureau of Investigation (NBI) conducted a joint investigation to look into reports that unauthorized MTRCB employees/board members have been visiting movie theaters and/or their respective booking offices to collect, for a fee, the required annual registration fee for movie theaters.
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> On June 25, 1996, MTRCB and NBI agents were dispatched to the province of Iloilo to monitor unregistered movie theaters operating in the area.
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> On June 26, 1996, NBI Special Investigator Norman Revita secured a Sinumpaang Salaysay of Marcelina Concepcion, wife of Jose Concepcion who owned the Crown Theater in Bacolod City. Marcelina stated that on or about February 20, 1996, her husband paid the annual registration fee of One Thousand Pesos (P1,000.00) to petitioner, thinking him to be a legitimate and authorized collector for the MTRCB. Every year, just before the expiration of their theater's registration, petitioner would allegedly collect the annual registration fee from them at their booking office in Sta. Cruz, Manila.
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> On June 27, 1996, Leonardo Ungoco, Jr., the authorized representative of Panay Cinema Corporation, owner of several movie theaters in the province of Iloilo and Bacolod City, executed an affidavit stating that around ten o'clock that morning, petitioner called him up with the following tip: "Pare, magbayad ka na ng theater registration fee, dahil may mga tao na tiga MTRCB pinapunta na sa Iloilo, buti pa magbayad ka na ngayon." Thus, forewarned, Leonardo immediately proceeded to the MTRCB Registration Office to pay the registration fee.
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> On November 21, 1996, Marvin B. Inigo, the owner and operator of the Guimba Theater in Guimba, Nueva Ecija, executed an affidavit stating that in 1992 and 1993, petitioner, representing himself as an MTRCB collector, collected from him One Thousand Two Hundred Pesos (P1,200.00) as registration fee. Despite these payments, however, Marvin never received his registration certificate for the years 1992 and 1993. Further investigation disclosed that no such payment of the annual registration fee for the year 1993 by the Guimba Theater was recorded in the MTRCB Official Cash Book for registration fees.

Based on the above sworn statements, the MTRCB filed an administrative case against petitioner for conduct grossly detrimental to the best interest of the service. As an MTRCB Registration Officer II, petitioner allegedly acted without authority and beyond the scope of his official duties and responsibilities when he collected registration fees from theater owners and warned them of impending MTRCB operations, thus, thwarting and frustrating the same.

In view of the above administrative case, the MTRCB Chairman ordered the temporary transfer of petitioner to the Information Unit.

Meanwhile, the initial investigation of the case was scheduled for February 13, 1997. Upon petitioner's request, however, it was reset to February 21, March 4, and March 14, 1997.

During the March 4, 1997 hearing, petitioner answered the clarificatory questions posed by the Investigating Committee. He also submitted his counter-affidavit and manifested his intention to question the jurisdiction and authority of the Investigating Committee.

On March 14, 1997, petitioner filed a motion for bill of particulars, followed on July 25, 1997 by a motion to dismiss on the ground of lack of cause of action.

The Investigating Committee denied petitioner's motion to dismiss, but granted his motion for bill of particulars. It then required petitioner to submit within five days from notice his verified answer to the complaint.

Instead of submitting his verified answer as required by the Investigating Committee, petitioner, on October 21, 1997, filed a motion for reconsideration of the denial of his motion to dismiss.

On December 16, 1997, the Investigating Committee issued a resolution denying petitioner's motion for reconsideration. It also reiterated its previous order for petitioner to file his verified answer to the complaint, this time giving him twenty days from receipt of the resolution within which to do so.

Petitioner again failed to comply with the above order. Instead, he filed a motion to suspend proceedings pending the NBI's own investigation of the case. Pointing out that the MTRCB's investigation was independent of that of the NBI, the Investigating Committee denied petitioner's motion.

On March 18, 1998, petitioner finally filed his unverified answer to the complaint. Essentially, he denied knowledge of, and being an obstacle to, the MTRCB's operations. He also denied ever having left the MTRCB's premises during office hours in order to collect registration fees from theater owners/managers. He allegedly only reminded theater owners/managers to register or renew their registration since this was part of his duties and functions as a Registration Officer.

On March 25, 1998, the Investigating Committee issued its resolution on the case, the dispositive portion of which reads as follows:
IN VIEW OF THE FOREGOING, the Investigation Committee recommends to the Board the suspension of the Respondent (herein petitioner) for SIX (6) MONTHS for committing acts constituting "conduct grossly prejudicial to the best interest of the service" in accordance with Section 23, par. (t) of Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292; and, that, the Memorandum of Temporary Transfer of Assignment dated 16 August 1996 be made permanent.

Respectfully recommended.

During its meeting on April 28, 1998, the MTRCB adopted the above recommendations of the Investigating Committee. Petitioner filed a motion for reconsideration of this decision which, however, was denied by the MTRCB on July 15, 1998.

Thus, petitioner appealed to the Civil Service Commission. On December 29, 1998, the Civil Service Commission

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issued its Resolution No. 983231, denying petitioner's appeal and affirming the MTRCB's decision with modification, in this wise:

> WHEREFORE, the appeal of Abelardo C. Rivas is hereby denied for lack of merit. Accordingly, the Decision dated March 25, 1998 of the MTRCB finding Rivas guilty of Conduct Grossly Prejudicial to the Best Interest of the Service imposing upon him the penalty of suspension for six (6) months is hereby affirmed. However, the additional penalty of transfer (reassignment) which became permanent is hereby set aside. Hence, Rivas should now be reverted back to his former assignment as Registration Officer II in the Technical Service Division of the MTRCB.

On March 10, 1999, petitioner's motion for reconsideration of the above resolution was similarly denied by the Civil Service Commission for lack of merit in its Resolution No. 990621.

Refusing to give up, petitioner appealed the above resolutions of the Civil Service Commission via a petition for review to the Court of Appeals. Finding no merit in the petition, however, the Court of Appeals issued its assailed Decision dated September 24, 1999, dismissing the petition and affirming in toto the resolutions of the Civil Service Commission.

Petitioner then filed a motion for reconsideration, but this was likewise denied by the Court of Appeals for lack of merit in its assailed Resolution dated November 16, 1999.

Hence, this petition. [2]

The sole ground raised in the present petition is that:

> THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN DISMISSING THE PETITION FOR CERTIORARI FILED BY PETITIONER ON THE GROUND THAT PETITIONER WAS AFFORDED DUE PROCESS BY THE MTRCB.

Petitioner argues that in the proceedings before the Movie and Television Review and Classification Board (MTRCB), he pleaded for an opportunity to confront and cross-examine the affiants who executed the sworn statements against him, but his pleas were not granted. He points out the possibility that anyone could have just used his name or misrepresented themselves as "Boy" Rivas because he was in the MTRCB offices, as shown by his time card, at the time one of the affiants (affiant Marcelina Concepcion) claimed he was collecting fees at their booking office.

We find merit in the petition but based on a different ground.

On the issue of denial of due process, this Court has consistently held that in administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. In Cayago vs. Lina,[3] petitioners therein also used the argument that they were denied due process since the complainant failed to testify on his sworn affidavit, and that they were not given the opportunity to cross-examine said complainant during the summary dismissal proceedings. The Court ruled that petitioners therein were not in any way denied due process since: (1) they were apprised of the charges against them; (2) they presented their counter-affidavits, supplemental affidavits and other pieces of evidence to rebut the Sworn Affidavit of the complainant; (3) they were represented by counsel before the Summary Dismissal Hearing Officer; and (4) they were able to redress their case all the way from the PNP Director General up to the Civil Service Commission (CSC). Thus, it was explained therein that:

> Due process, as a constitutional precept, does not always and in all situations require a trial-type proceeding. Due process is satisfied when a person is notified of the charge against him and given an opportunity to explain

> or defend himself. In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. As long as a party was given the opportunity to defend his interests in due course, he was not denied due process.

In this case, petitioner had definitely been given all the chances to present his defense. He submitted his counter-affidavit and Answer with supporting documentary evidence, i.e., his daily time record for the month of February 1996, and copies of official receipts and certificates of registration for Crown Theater and Guimba Theater. Several hearings were held where he answered the clarificatory questions posed by the Investigating Committee of the MTRCB. His motion for a bill of particulars was granted and his motions for reconsideration were considered and passed upon by said Investigating Committee. The CSC and the CA also reviewed petitioner's case. Hence, petitioner cannot claim that he was denied due process or the opportunity to fully ventilate his defense in the administrative case against him.

Nevertheless, while it is true that petitioner was not denied due process, the Court cannot accede to the factual findings made by the MTRCB and affirmed by the CSC. Indeed, in a petition for review on certiorari filed pursuant to Rule 45 of the 1997 Rules of Civil Procedure, it is not the function of this Court to re-examine the evidence submitted by the parties. However, the Court may still review factual findings of the lower court if it believes that such findings are not supported by evidence on record or the judgment is based on a misapprehension of facts.[4]

In the case at bar, the question raised by petitioner against the credibility of the evidence presented to prove the charges against him behooves the Court to take a closer look at said evidence. Both the MTRCB Investigating Committee and the CSC based their findings on the sworn affidavits of Marcelina Concepcion, Leonardo Ungoco, Jr., and Marvin B. Ynigo. However, after a careful examination of said sworn statements, the Court finds reason to believe that the evidence on record does not support the findings of fact of the MTRCB and the CSC.

The sworn statement of Marcelina Concepcion is especially doubtful. She stated that she resides in Bacolod City, employed as the Theater Manager of Crown Theater at Bacolod City. Next, she stated that it was her husband who dealt with a person named Boy Rivas by giving the latter the amount of P1,000.00 sometime around February 20, 1996. She did not state where the transaction was made, but she stated thereafter that every year, before their registration expires, this person known as Boy Rivas would go to their Booking Office at Escolta, Manila to collect said annual registration fees. How, then, could she have personally seen the transactions that supposedly transpired in Escolta, Manila, when she resides and works in Bacolod City? There is nothing in her statement to explain how she could have derived from her own perception the knowledge that a certain Boy Rivas goes to collect fees at their Booking Office at Escolta, Manila, despite the fact that she lives and works in Bacolod City. The Court is convinced that her statements are merely hearsay and cannot be used against petitioner.

The Court likewise cannot give full credence to the statement of Marvin Ynigo, a resident of Guimba, Nueva Ecija and the operator of Guimba Theather in the same province, that a certain Abelardo "Boy" Rivas went to their office in Nueva Ecija sometime in March of 1992 and then again in March of 1993 to collect the amount of P1,200.00 as registration fee. Ynigo declared that he never received the Certificate of Registration for the year 1992 as promised by the person who introduced himself as Abelardo "Boy" Rivas. Thus, it is highly doubtful and contrary to human experience that he would again entrust the money for registration fees for the year 1993 to the very same person who appeared to have misappropriated the sum he gave a year earlier.

The Court also notes that there is no statement as to exactly how much the annual registration fees cost and the amount supposedly given to one Abelardo "Boy" Rivas exceeding said fees. In the absence of proof that said Boy Rivas was obtaining monetary gain from collecting said fees, it is beyond human comprehension that petitioner

Rivas would exert time and effort to go all the way to Guimba, Nueva Ecija, just to collect fees from one theater owner.

The statements in the sworn affidavits of Marcelina Concepcion and Marvin Ynigo show that their evidentiary value is not as weighty as the MTRCB and the CSC opined. The Court cannot give credence to hearsay or to statements that stretch credulity.

Lastly, the statement of Leonardo Ungoco, Jr. that petitioner Rivas called him by phone sometime on June 27, 1996 telling him to pay the registration fees for his theaters since the MTRCB already sent out its people to Iloilo, even if completely true, would not make petitioner Rivas administratively liable. Even assuming that such actuation of petitioner is beyond the scope of his official duties and responsibilities, the Court does not see how such act could be inimical to the interest of the service. The interest of the MTRCB is to make sure that theater owners pay the required fees. Considering that Mr. Ungoco stated in his affidavit that after he received the call, he immediately paid all the required fees, it is then clear that petitioner's conduct did not cause any damage to the service but, rather, worked in favor of the MTRCB as his phone call to a theater owner obtained for the MTRCB the desired result of a theater owner paying his obligations to said agency. Verily, the Court cannot consider such act of reminding and encouraging a theater owner to pay his obligations to the MTRCB as an act inimical to the service.

The Court, therefore, finds that the evidence against petitioner lacks credibility and is insufficient to hold petitioner liable for Conduct Grossly Prejudicial To The Best Interest Of The Service.

IN VIEW OF THE FOREGOING, the petition is hereby GRANTED. The Decision of the Court of Appeals dated September 24, 1999 and its Resolution dated November 16, 1999 are hereby REVERSED and SET ASIDE. The administrative complaint against petitioner is DISMISSED for lack of merit and the Movie and Television Review and Classification Board is ORDERED to pay petitioner backwages for the duration of his suspension; and to revert him back to his former assignment as Registration Officer II in the Technical Service Division of the MTRCB.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., and Chico-Nazario, JJ., concur.
Tinga, J., out of the country.

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[1] Penned by Associate Justice Artemio G. Tuquero, with Associate Justices Eubulo G. Verzola and Elvi John Asuncion concurring.

[2] Respondents' Comment, Rollo, pp. 149-153.

[3] Cayago vs. Lina, G.R. No. 149539, January 19, 2005.

[4] Caoili vs. CA, G.R. No. 128325, September 14, 1999, 314 SCRA 345.

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