ISRAEL G. PERALTA, PAROLE AND PROBATION ADMINISTRATION, COTABATO CITY, PETITIONER, VS. COURT OF APPEALS, THE OMBUDSMAN AND NIDA OLEGARIO, RESPONDENTS.

G.R. NO. 141966. June 30, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court which seeks the reversal of the Decision[1] of the Court of Appeals (CA) dated November 26, 1999, in CA-G.R. SP No. 54375 denying the petition for certiorari filed by petitioner Israel G. Peralta; and the Resolution[2] dated February 15, 2000 denying petitioner's motion for reconsideration. The petition for certiorari assailed the Decision[3] of the Office of the Ombudsman in Administrative Case No. OMB-MIN-ADM-95-098, finding Peralta guilty of abuse of authority and imposing upon him the penalty of suspension from office for one year.

The facts of the case, as found by the CA, are as follows:

> Petitioner Israel G. Peralta (PERALTA) is the Director/Officer-in-Charge of the Parole and Probation Administration (PPA), Regional Office No. XII, Cotabato City. On the other hand, private respondent Nida Olegario (OLEGARIO) holds a permanent position of Budget Officer I in the same office.
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> In 1993, the Central Office of the PPA inadvertently reported to the Department of Budget and Management (DBM) that the position held by OLEGARIO was an unfilled position. Consequently, the DBM did not release any allotment or funds for the position.
>
> PERALTA, as Director/OIC of PPA Regional Office XII, caused the payment of OLEGARIO's salary and other benefits from the savings of the office. Thereafter, PERALTA, brought the matter to the attention of the DBM and requested for allotment for the position of Budget Officer I, but the same was not released for some time.
>
> On March 23, 1995, PERALTA issued an Order, directing OLEGARIO and a co-employee Visitacion U. Enilo, to cease and desist from performing their duties and functions effective April 1, 1995 and to 'go on leave with or without pay, as the case may be', on the ground of insufficiency in the release of allotment under the plantilla of the office.
>
> In order to enforce said Order, PERALTA, on March 28, 1995, directed the property custodian to recall all semi- expendable equipment from OLEGARIO and to turn them over to Clerk II Marietta Linggang who was designated in the same Order as Records Officer.
>
> On March 24, 1995, OLEGARIO sought the opinion of the Civil Service Commission (CSC), Cotabato City, anent the legality of the aforesaid Order. In a letter dated March 27, 1995, the CSC informed PERALTA that OLEGARIO, being a government employee holding a permanent appointment, cannot be removed or separated from the service without valid cause. In the same letter, the CSC declared that the assailed Order is illegal because going on leave is a matter of personal choice and decision of the employee concerned. The CSC

> further held that the alleged insufficiency of cash allotment for salaries is not among the valid grounds provided by law for removing/separating employees from the service. It also advised PERALTA to cease and desist from enforcing the void Order.
>
> Despite the CSC ruling, PERALTA persisted in enforcing the void order, prompting OLEGARIO to seek anew the assistance of the CSC in another letter dated April 3, 1995, informing the CSC about the handwritten directive issued by PERALTA to the security guards of the office directing the latter to strictly enforce his order dated March 23, 1995, and to prevent and disallow OLEGARIO from registering in the personnel logbook of the office.
>
> In a letter dated April 10, 1995 addressed to PERALTA, the CSC reiterated its previous ruling and added that the enforcement of the Order is tantamount to removal without just cause, is without due process, and is in violation of the constitutional guarantee of security of tenure. The CSC ordered PERALTA to allow OLEGARIO and Visitacion Enilo to report for work.
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> PERALTA obstinately refused to obey the CSC directive. OLEGARIO and Visitacion Enilo continued to be barred from reporting for work.
>
> On May 17, 1995, OLEGARIO filed her complaint with the Office of the Ombudsman (Mindanao) against PERALTA for grave abuse of authority.
>
> On July 21, 1995, PERALTA issued a memorandum directing OLEGARIO and Visitacion Enilo to report back for work in view of the receipt of the allotment for their salaries from the Department of Budget and Management.
>
> On August 2, 1995, OLEGARIO reported back for work in compliance with the aforesaid memorandum.
>
> On August 7, 1996, after finding probable cause, the Honorable Ombudsman preventively suspended PERALTA for ninety (90) days. He moved for a reconsideration but the same was denied.
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> On November 26, 1996, the Honorable Ombudsman found PERALTA guilty of grave abuse of authority and meted him the penalty of suspension from office for one (1) year without pay.
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> . . . . .
>
> PERALTA's motion for reconsideration was denied in the Order dated April 18, 1997.[4]

Aggrieved by the judgment of the Office of the Ombudsman, Peralta filed a petition for certiorari with this Court, pursuant to Section 27 of Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989.[5]

Subsequently, private respondent Olegario and the Office of the Solicitor General filed their respective comments on the Petition.[6] Peralta filed his reply to Olegario's comment.[7]

In a Resolution[8] issued by this Court on July 6, 1999, the instant case was referred to the CA pursuant to this Court's ruling in Fabian vs. Desierto.[9]

On November 26, 1999, the CA rendered herein assailed Decision. Peralta filed a motion for reconsideration[10] which was denied by the CA in its Resolution of February 15, 2000.[11]

Hence, the present petition for review based on the following grounds:

- RESPONDENT COURT GRAVELY ABUSED ITS DISCRETION, TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION, IN DISMISSING THE CASE WHEN IT EQUATED THE POWER OF THE REGIONAL DIRECTOR OF THE CIVIL SERVICE COMMISSION WITH THOSE OF THE COMMISSION ITSELF.

- THE RESPONDENT COURT GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OF

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JURISDICTION WHEN IT APPLIED THE TERM “BAD FAITH” TO THE ACT OF THE PETITIONER WITHOUT TAKING INTO ACCOUNT THE YARDSTICK LAID BY THE HONORABLE SUPREME COURT.

- THE RESPONDENT COURT ERRED AND/OR COMMITTED A GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OF JURISDICTION IN AFFIRMING THE PATENTLY ERRONEOUS RESOLUTION OF THE OMBUDSMAN.[12]

In a Resolution dated October 4, 2000, we issued a temporary restraining order enjoining the Office of the Ombudsman from implementing its Decision of November 26, 1996 in Administrative Case No. OMB-MIN-ADM-95-098.

In his first assignment of error, Peralta contends that the letters he received from the Office of the Regional Director of the Civil Service Commission (CSC) are mere opinions or technical advice which are not binding on him. He argues that while under the Administrative Code of 1987, the power of the Regional Director of the CSC includes the authority to: (1) enforce Civil Service law and rules, policies, standards on personnel management within their respective jurisdiction; (2) provide technical advice and assistance to government offices and agencies regarding personnel administration; and (3) perform such other functions as may be delegated by the Commission, the power of the Regional Director of the CSC does not include the authority to render opinion and rulings on all personnel and other Civil Service matters which shall be binding on all heads of departments, offices and agencies. Such power is granted only to the Commission itself.

We do not agree.

Section 13 of Presidential Decree (P.D.) No. 807, known as the Civil Service Decree of the Philippines, provides:

> SEC. 13. Regional Offices. – Each regional office of the Commission shall exercise the following authority:
>
> - Enforce Civil Service Law and Rules in connection with personnel actions of national and local government agencies within the region, and the conduct of public officers and employees;
>
> - Conduct recruitment and examination for government-wide positions in the regions;
>
> - Provide technical advice and assistance to public agencies within the region regarding personnel administration; and
>
> - Perform such other functions as may be assigned to it by the Commission. (Emphasis ours)

In the same manner, Section 16(15), Chapter 3, Subtitle A, Title I, Book V of Executive Order (E.O.) No. 292, otherwise known as the Administrative Code of 1987, states:

> (15) The Regional and Field Offices. – The Commission shall have not less than thirteen (13) Regional offices each to be headed by an official with at least the rank of an Assistant Director. Each Regional Office shall have the following functions:
>
> (a) Enforce Civil Service law and rules, policies, standards on personnel management within their respective jurisdiction;
>
> (b) Provide technical advice and assistance to government offices and agencies regarding personnel administration; and
>
> (c) Perform such other functions as may be delegated by the Commission. (Emphasis ours)

It is clear from the above-quoted provisions of P.D. No. 807 and E.O. No. 292 that the Regional Offices of the

CSC are empowered to enforce Civil Service laws, rules, policies and standards on personnel management or personnel actions of national and local government agencies within their jurisdiction, and to enforce the same laws, rules, policies and standards with respect to the conduct of public officers and employees. From this power necessarily flows the authority to issue opinions and rulings regarding personnel management in both national and local government agencies. Moreover, these opinions and rulings perforce bind the aforementioned government agencies, otherwise, the authority given by law to these Regional Offices would become useless and said Regional Offices can be rendered impotent by government agencies which can simply choose to ignore their opinions and rulings on the convenient ground that they are not binding.

In the present case, the provision of law being enforced by the Regional Office of the CSC is Section 36 of P.D. No. 807 and Section 46 of E.O. No. 292 which both provide that no officer or employee in the Civil Service shall be suspended or dismissed except for cause as provided by law and after due process. Hence, the ruling of the CSC Regional Office that the memorandum of Peralta, dated March 23, 1995, directing private respondent Nida Olegario to cease and desist from performing her duties and functions and advising her to go on leave with or without pay is contrary to existing Civil Service law and rules, is binding upon petitioner.

Peralta's main contention is that his issuance of the questioned memorandum was done in good faith.

We are not persuaded.

Peralta argues that his act of issuing the memorandum of March 23, 1995 was demanded by the urgency of finding a solution to a problem that was not of his own making but which was caused by the inadvertence of those who prepared the budgetary requirements of his office. He claims that he was left with no better choice but to enforce the said memorandum because he fears that he may be held personally liable for the payment of the salary of Olegario if he allowed her to continue to work without any cash allotments coming from the Department of Budget and Management (DBM).

However, Peralta failed to refute the allegation of Olegario that as early as November 1994, or four months before Peralta issued the questioned memorandum, he already knew of the release of cash allotment by the DBM to answer for the salary of Olegario. Despite such knowledge he still proceeded to implement his memorandum.

Even granting that no cash allotment was indeed released by the DBM, Peralta could have simply contented himself by doing his duty as the Director/Officer-in-Charge of Regional Office No. XII of the Parole and Probation Administration (PPA), of informing the central office of the PPA of its mistake in declaring the position of Olegario as vacant and of following up the status of his request for the release of Olegario's salary by the DBM. In such a case, he can no longer be faulted, as it is already beyond his control, if the DBM, in coordination with the central office of the PPA, still failed to provide the necessary funding for the salary of Olegario. Peralta overstepped the bounds of his authority by executing and implementing his memorandum and in spite of the advice given by the CSC Regional Office that the same is without any legal basis.

Further, granting for the sake of argument that the opinions and rulings of the Regional Office of the CSC are not binding upon him, it behooves Peralta to have been more careful in continuing to enforce his questioned memorandum considering that he has been reminded twice by the CSC Regional Office not to pursue his actions as they are not in accordance with law. What makes his conduct inexcusable is the fact that Peralta chose to ignore the directive of a government agency whose main task is to enforce Civil Service laws, rules, policies and standards on personnel management and is, therefore, presumed to be the authority when it comes to matters involving questions on personnel administration in the government. It would have been different if Peralta was never informed or advised by the CSC of the illegality of his actions, for in such a case he could have validly claimed that he acted in good faith. But the undisputed facts in the present case show otherwise. Peralta was

properly advised by the CSC. In fact, the CSC Regional Office wrote to him twice. The second letter even contained an order allowing Olegario to report back to work. Despite these letters and directive, Peralta remained adamant.

The fact that he was not satisfied with the advice or instruction of the CSC Regional Office does not justify his act of disregarding the same. He could have filed an appeal with the CSC itself questioning the ruling of the CSC Regional Office as the Commission has the power, under the law, to review decisions and actions of its offices and of the agencies attached to it.[13] In the alternative, Peralta could have sought the opinion of other authorities, such as the legal department of his office. He also had the option of taking the matter with the central office of the PPA, or the Department of Justice of which the PPA is a constituent unit. As the Director/Officer-in-Charge of Regional Office No. XII of the PPA, it is Peralta's duty to find legal bases for his actions. However, nothing in the records at hand shows that he did. Instead, he proceeded to implement his own memorandum, which runs counter to the order of the CSC Regional Office. Thus, the presumption of good faith on his part is overcome by his obstinate and unjustified refusal to heed the directive of the CSC. Peralta, no doubt, acted in bad faith. In Sidro vs. People,[14] we held that:

> Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud. It contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill will for ulterior purposes. Evident bad faith connotes a manifest deliberate intent on the part of the accused to do wrong or cause damage.[15]

Hence, we find no error in the findings of the CA that Peralta is guilty of abuse of authority.

As to the payment of the back salaries of Olegario, we find our ruling in Constantino-David, et al. vs. Pangandaman-Gania[16] applicable. There, we held that if the illegal dismissal, including the refusal to reinstate an employee after a finding of unlawful termination, is found to have been made in bad faith or due to personal malice of the superior officers then they will be held personally accountable for the employee's back salaries; otherwise, the government disburses funds to answer for such arbitrary dismissal.[17] In the present case, while Olegario was not dismissed, Peralta nonetheless, barred her from reporting for work. Moreover, Peralta unjustifiably refused to reinstate or allow her to report back to work despite the order of reinstatement issued by the CSC Regional Office. Hence, Peralta should be made liable for the salary of Olegario from April 1, 1995, which was the date of effectivity of Peralta's memorandum of March 23, 1995, until July 21, 1995, when Peralta issued another memorandum directing Olegario to report back to work.

WHEREFORE, the instant petition for review is denied. The Decision and Resolution of the Court of Appeals in CA- G.R. SP No. 54375 dated November 26, 1999 and February 15, 2000, respectively, are AFFIRMED with MODIFICATION that Peralta is directed to pay the back salaries of Olegario from April 1, 1995 until July 21, 1995.

The temporary restraining order issued by this Court is LIFTED and SET ASIDE.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

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[1] Penned by Justice Hector L. Hofileña (now retired) and concurred in by Justices Omar U. Amin (now retired) and Jose L. Sabio, Jr.

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[2] Penned by Justice Jose L. Sabio, Jr., and concurred in by Justices Eubulo G. Verzola (now deceased) and Martin S. Villarama, Jr.

[3] Original Records, pp. 304-318.

[4] Court of Appeals Rollo, pp. 148-150.

[5] Id., p. 3.

[6] Id., pp. 60-77 and pp. 133-143.

[7] Id., pp. 97-106.

[8] Id., p. 146.

[9] G.R. No. 129742, September 16, 1998, 295 SCRA 470.

[10] CA Rollo, pp. 161-171.

[11] Id., pp. 180-181.

[12] Rollo, pp. 16-17.

[13] Section 12(11), Chapter 3, Subtitle A, Title I, Book V, E.O. No. 292.

[14] G.R. No. 149685, April 28, 2004, 428 SCRA 182, citing Marcelo vs. Sandiganbayan, G.R. No. 69983, May 14, 1990, 185 SCRA 346.

[15] Id., p. 194.

[16] G.R. No. 156039, August 14, 2003, 409 SCRA 80.

[17] Id., pp. 97-99.

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