

CORAZON G. BUNTAG, PETITIONER, VS. NIDA PAGA, FAITH C. GERONA, ANECIA C. CAHANAP, NORMA S. FERNANDEZ, MYRNA R. REPLAGAO, CHONA C. SILVOSA, MARIA FE C. ACERA, REY G. ACERA, VIOLE...

G.R. No. 145564. March 24, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

The sole issue in the petition for certiorari before the Court refers only to the penalty imposed on petitioner by the Office of the Ombudsman (Mindanao) in Case No. OMB-MIN-ADM-96-126 for Falsification of Official Document, affirmed by the Court of Appeals (CA).

The facts of the case are undisputed by petitioner.

Petitioner Corazon G. Buntag is a Social Welfare Assistant with the City Social Welfare and Development Office (CSWDO) in Cagayan de Oro City. She was designated chairman of the Universal Children's Month held on October 26 and 27, 1995. Certain persons were invited as judges on certain contests participated in by the day care pupils. The charge against her arose when she falsified six reimbursement receipts reflecting the amount of P1,200.00 representing the honorarium of six judges when these judges actually did not attend the affair. The amount covered by these receipts was instead paid by petitioner to Ms. Felisa Mantilla, a day care worker, who advanced the funds for the purchase of decoration materials to be used for the stage.

In a Decision rendered by the Office of the Ombudsman (Mindanao) [Ombudsman] on April 23, 1998, petitioner was found guilty of six counts of Falsification of Official Document, and was ordered dismissed from the service pursuant to Section 9, Rule XIV, Book V of Executive Order No. 292, or The Administrative Code of 1987. On motion for reconsideration, the Ombudsman issued an Order dated September 21, 1998, modifying the penalty imposed on petitioner to suspension from service for one year.[1]

From the Ombudsman's Decision, petitioner filed a petition for certiorari with this Court on November 25, 1998. In a Resolution dated February 3, 1999,[2] the case was referred to the CA in line with the ruling in *Fabian v. Desierto*. [3]

On August 1, 2000, the CA rendered its decision, the dispositive portion of which reads:

WHEREFORE, foregoing premises considered, finding no reversible error on the part of the Ombudsman, the petition is hereby DENIED DUE COURSE and ORDERED DISMISSED. The decision of the Ombudsman is hereby AFFIRMED. With costs to respondent-petitioner.[4]

Hence, this petition.

The petition filed before the Court is one for certiorari under Rule 65 of the Rules of Court, which involves questions of jurisdiction; thus, petitioner stated that the CA "acted with great abuse of discretion", in issuing its

Decision.[5]

Petitioner should have filed a petition for review under Rule 45, as the Order dated September 21, 1998 and CA Decision dated August 1, 2000 are final judgments. Rule 45 of the Rules of Court specifically states that in all cases, the CA's decisions, final orders or resolutions, regardless of the nature of the action or proceedings involved, may be appealed to this Court through a petition for review, which is just a continuation of the appellate process involving the original case.

Petitioner received the CA's Decision on August 14, 2000. Under Rule 45, petitioner had 15 days from notice of the judgment appealed from,[6] or on August 29, 2000, within which to file the petition. She filed the same only on October 13, 2000; hence, the CA's Decision is already final and executory.

It is the general rule that certiorari cannot be availed of as a substitute for the lost remedy of an ordinary appeal, including that under Rule 45.[7] The few significant exceptions were: when public welfare and the advancement of public policy dictates; or when the broader interests of justice so require; or when the writs issued are null; or when the questioned order amounts to an oppressive exercise of judicial authority.[8] This case does not bear any of the exceptions such that the Court should relax the rule.

Moreover, even if the Court considers the petition as one for certiorari under Rule 65, it must be shown that the CA committed grave abuse of discretion equivalent to lack or excess of jurisdiction and not mere errors of judgment, for the petition to be granted. Certiorari is not a remedy for errors of judgment, which are correctible by appeal. By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and mere abuse of discretion is not enough — it must be grave.[9]

Petitioner does not dispute the fact that she falsified these reimbursement receipts. What she contests is the imposition of the penalty of suspension from the service for one year, contending that the circumstances of the case do not warrant such "oppressive", "excessive", and "harsh" penalty. Petitioner submits that she has been in the service for 23 years and this is the first time that she committed an infraction. She also pointed out that no damage or injury was done to the government; neither did she gain anything therefrom, since the amount covered by the receipts was actually reimbursed to and received by Ms. Mantilla, who incurred expenses for the decorations.

The offense having been committed in October 1995, the applicable law in this case is the Omnibus Civil Service Rules and Regulations.[10] Under Section 22 (f), Rule XIV of the Omnibus Rules, Falsification of Official Document is classified as grave offense punishable by dismissal from the service even on the first offense.[11] Section 16 further provides that mitigating circumstances may be considered in determining the penalties to be imposed. Thus, in recent cases, the Court took into consideration the mitigating circumstances present and reduced the imposable penalty of dismissal to suspension from service.

In *Civil Service Commission v. Belagan*,[12] the respondent, who was charged with sexual harassment and found guilty of Grave Misconduct, was meted out the penalty of suspension from office without pay for one year, given the respondent's length of service, unblemished record in the past and numerous awards.

In *Vidallon-Magtolis v. Salud*,[13] a CA personnel was found guilty of inefficiency and gross misconduct, punishable by dismissal from the service even for the first offense. However, considering that the respondent has not been previously charged nor administratively sanctioned, the Court reduced the penalty and imposed the penalty of suspension for one year and six months.

In *De Guzman, Jr. v. Mendoza*,[14] the respondent sheriff was charged with conniving with another in causing the issuance of an alias writ of execution and profiting on the rentals collected from the tenants of the subject

property. The respondent was subsequently found guilty of Grave Misconduct, Dishonesty and Conduct Prejudicial to the Best Interest of the Service; but instead of imposing the penalty of dismissal, the Court meted out the penalty of suspension for one year without pay, it appearing that it was respondent's first offense.

In this case, the Ombudsman already took into consideration petitioner's length of service in the government and the fact that this is her first infraction; thus, the penalty was reduced to one year suspension. Petitioner failed to show any grave abuse of discretion on the part of the CA and the Ombudsman, as the penalty, as reduced, is proper under the circumstances of this case and in accord with the law.

WHEREFORE, petition is DISMISSED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] CA rollo, p. 17.

[2] Id. at 54.

[3] 356 Phil. 787 (1998).

[4] Rollo, p. 20.

[5] Id. at 9.

[6] Rules of Court, Rule 45, Sec. 2.

[7] Go v. Tong, G.R. No. 151942, November 27, 2003, 416 SCRA 557, 563.

[8] Heirs of Lourdes Potenciano Padilla v. Court of Appeals, G.R. No. 147205, March 10, 2004, 425 SCRA 236, 242.

[9] Tomas Claudio Memorial College, Inc. v. Court of Appeals, 374 Phil. 859, 864 (1999).

[10] Civil Service Resolution No. 91-1631 (Rules Implementing Book V of Executive Order No. 297 and Other Pertinent Civil Service Laws) dated December 27, 1991.

[11] Rule XIV, Section 22 (f).

[12] G.R. No. 132164, October 19, 2004, 440 SCRA 578, 601.

[13] A.M. No. CA-05-20-P, September 9, 2005, 469 SCRA 439, 469-470.

[14] A.M. No. P-03-1693, March 17, 2005, 453 SCRA 565, 574.

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