# HAYDEE C. CASIMIRO, IN HER CAPACITY AS MUNICIPAL ASSESSOR OF SAN JOSE, ROMBLON, PROVINCE OF ROMBLON, PETITIONER, VS. FILIPINO T. TANDOG, IN HIS CAPACITY AS THE MUNICIPAL MAYOR O...

*G.R. NO. 146137. June 08, 2005*

Ponente: CHICO-NAZARIO, J.

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**CHICO-NAZARIO, J.:**

This is a petition for review on certiorari of the Decision[1] dated 31 May 2000 of the Court of Appeals and its Resolution dated 21 November 2000 in CA-G.R. SP No. 46952, which affirmed in toto Civil Service Commission (CSC) Resolution No. 973602 dated 12 August 1997. The said CSC Resolution affirmed the Decision of Municipal Mayor Filipino Tandog of San Jose, Romblon, finding petitioner Haydee Casimiro guilty of dishonesty and ordering her dismissal 3from the service.

The relevant antecedents of the instant petition are as follows:

Petitioner Haydee Casimiro began her service in the government as assessment clerk in the Office of the Treasurer of San Jose, Romblon. In August 1983, she was appointed Municipal Assessor.

On 04 September 1996, Administrative Officer II Nelson M. Andres, submitted a report[2] based on an investigation he conducted into alleged irregularities in the office of petitioner Casimero. The report spoke of an anomalous cancellation of Tax Declarations No. 0236 in the name of Teodulo Matillano and the issuance of a new one in the name of petitioner's brother Ulysses Cawaling and Tax Declarations No. 0380 and No. 0376 in the name of Antipas San Sebastian and the issuance of new ones in favor of petitioner's brother-in-law Marcelo Molina.

Immediately thereafter, respondent Mayor Tandog issued Memorandum Order No. 13[3] dated 06 September 1996, placing the petitioner under preventive suspension for thirty (30) days. Three (3) days later, Mayor Tandog issued Memorandum Order No. 15, directing petitioner to answer the charge of irregularities in her office. In her answer,[4] petitioner denied the alleged irregularities claiming, in essence, that the cancellation of the tax declaration in favor of her brother Ulysses Cawaling was done prior to her assumption to office as municipal assessor, and that she issued new tax declarations in favor of her brother-in-law Marcelo Molina by virtue of a deed of sale executed by Antipas San Sebastian in Molina's favor.

On 23 October 1996, thru Memorandum Order No. 17,[5] respondent Mayor extended petitioner's preventive suspension for another thirty (30) days effective 24 October 1996 to give him more time to verify and collate evidence relative to the alleged irregularities.

On 28 October 1996, Memorandum Order No. 18[6] was issued by respondent Mayor directing petitioner to answer in writing the affidavit-complaint of Noraida San Sebastian Cesar and Teodulo Matillano. Noraida San Sebastian Cesar[7] alleged that Tax Declarations No. 0380 and No. 0376 covering parcels of land owned by her

parents were transferred in the name of a certain Marcelo Molina, petitioner's brother-in-law, without the necessary documents. Noraida Cesar further claimed that Marcelo Molina had not yet paid the full purchase price of the land covered by the said Tax Declarations. For his part, Teodulo Matillano claimed[8] that he never executed a deed of absolute sale over the parcel of land covered by Tax Declaration No. 0236 in favor of Ulysses Cawaling, petitioner's brother.

In response to Memorandum Order No. 18, petitioner submitted a letter[9] dated 29 October 1996, stating that with respect to the complaint of Noraida San Sebastian Cesar, she had already explained her side in the letter dated 26 September 1996. As to the complaint of Teodulo Matillano, she alleged that it was a certain Lilia Barrientos who executed a deed of absolute sale over the parcel of land subject of the complaint in favor of her brother, Ulysses Cawaling.

Not satisfied, respondent Mayor created a fact-finding committee to investigate the matter. After a series of hearings, the committee, on 22 November 1996, submitted its report[10] recommending petitioner's separation from service, the dispositive portion of which reads:

> Evaluating the facts above portrayed, it is clearly shown that Municipal Assessor Haydee Casimero is guilty of malperformance of duty and gross dishonesty to the prejudice of the taxpayers of San Jose, Romblon who are making possible the payments of her salary and other allowances. Consequently, we are unanimously recommending her separation from service.

Based on the above recommendation, respondent Mayor issued Administrative Order No. 1[11] dated 25 November 1996 dismissing petitioner, thus:

> Upon unanimous recommendations of the fact finding committee Chairmained (sic) by Municipal Administrator Nelson M. Andres, finding you (Haydee C. Casimero) guilty of Dishonesty and Malperformance of duty as Municipal Assessor of San Jose, Romblon, copy of which is hereto attached as Annex "A" and made as integral part hereof, you are hereby ordered separated from service as Municipal Assessor of San Jose, Romblon, effective upon request hereof.

Undeterred by that setback, petitioner appealed to the CSC, which affirmed[12] respondent Mayor's order of dismissal. A motion for reconsideration[13] was filed, but the same was denied.[14]

Dissatisfied, petitioner elevated her case to the Court of Appeals, which subsequently affirmed the CSC decision.[15] Her motion for reconsideration was likewise denied.

Petitioner now comes to us raising the lone issue[16] of whether or not petitioner was afforded procedural and substantive due process when she was terminated from her employment as Municipal Assessor of San Jose, Romblon. An underpinning query is: Was petitioner afforded an impartial and fair treatment? She specifically points to bias and partiality on the members of the fact-finding committee. She avers that Lorna Tandog Vilasenor, a member of the fact-finding committee, is the sister of respondent Mayor. She further alludes that while the committee chairman, Nelson M. Andres, was appointed by the respondent Mayor to the position of Administrative Officer II only on 01 August 1996, no sooner was he given the chairmanship of the Committee. Further the affiants-complainants were not presented for cross examination.

We find the present petition bereft of merit.

The first clause of Section 1 of Article III of the Bill of Rights states that:

> SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, . . . .

In order to fall within the aegis of this provision, two conditions must concur, namely, that there is deprivation of


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life, liberty and property and such deprivation is done without proper observance of due process. When one speaks of due process, however, a distinction must be made between matters of procedure and matters of substance.

In essence, procedural due process "refers to the method or manner by which the law is enforced."[17]

The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard.[18] In administrative proceedings, such as in the case at bar, procedural due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of.[19] "To be heard" does not mean only verbal arguments in court; one may be heard also thru pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.[20]

In administrative proceedings, procedural due process has been recognized to include the following: (1) the right to actual or constructive notice of the institution of proceedings which may affect a respondent's legal rights; (2) a real opportunity to be heard personally or with the assistance of counsel, to present witnesses and evidence in one's favor, and to defend one's rights; (3) a tribunal vested with competent jurisdiction and so constituted as to afford a person charged administratively a reasonable guarantee of honesty as well as impartiality; and (4) a finding by said tribunal which is supported by substantial evidence submitted for consideration during the hearing or contained in the records or made known to the parties affected.[21]

In the case at bar, what appears in the record is that a hearing was conducted on 01 October 1996, which petitioner attended and where she answered questions propounded by the members of the fact-finding committee. Records further show that the petitioner was accorded every opportunity to present her side. She filed her answer to the formal charge against her. After a careful evaluation of evidence adduced, the committee rendered a decision, which was affirmed by the CSC and the Court of Appeals, upon a move to review the same by the petitioner. Indeed, she has even brought the matter to this Court for final adjudication.

Kinship alone does not establish bias and partiality.[22] Bias and partiality cannot be presumed. In administrative proceedings, no less than substantial proof is required.[23] Mere allegation is not equivalent to proof.[24] Mere suspicion of partiality is not enough. There should be hard evidence to prove it, as well as manifest showing of bias and partiality stemming from an extrajudicial source or some other basis.[25] Thus, in the case at bar, there must be convincing proof to show that the members of the fact-finding committee unjustifiably leaned in favor of one party over the other. In addition to palpable error that may be inferred from the decision itself, extrinsic evidence is required to establish bias.[26] The petitioner miserably failed to substantiate her allegations. In effect, the presumption of regularity in the performance of duty prevails.[27]

Neither are we persuaded by petitioner's argument that the affidavit is hearsay because the complainants were never presented for cross examination. In administrative proceedings, technical rules of procedure and evidence are not strictly applied; administrative due process cannot be fully equated to due process in its strict judicial sense.[28]

Nothing on record shows that she asked for cross examination. In our view, petitioner cannot argue that she has been deprived of due process merely because no cross examination took place. Again, it is well to note that due process is satisfied when the parties are afforded fair and reasonable opportunity to explain their side of the controversy or given opportunity to move for a reconsideration of the action or ruling complained of. In the present case, the record clearly shows that petitioner not only filed her letter-answer, she also filed a motion for reconsideration of the recommendation of the committee dated 22 November 1996. The essence of due process in the administrative proceedings is an opportunity to explain one side or an opportunity to seek reconsideration of

the action or ruling complained of.[29]

The Court finds far little basis to petitioner's protestations that she was deprived of due process of law and that the investigation conducted was far from impartial and fair.

As to the substantive due process, it is obvious to us that what petitioner means is that the assailed decision was not supported by competent and credible evidence.[30]

The law requires that the quantum of proof necessary for a finding of guilt in administrative cases is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion.[31]

Well-entrenched is the rule that substantial proof, and not clear and convincing evidence or proof beyond reasonable doubt, is sufficient basis for the imposition of any disciplinary action upon an employee. The standard of substantial evidence is satisfied where the employer has reasonable ground to believe that the employee is responsible for the misconduct and his participation therein renders him unworthy of trust and confidence demanded by his position.[32]

In the case at bar, there is substantial evidence to prove petitioner's dismissal.

Two alleged irregularities provided the dismissal from service of herein petitioner:

> - The cancellation of complainant Teodulo Matillano's tax declaration and the issuance of a new one in favor of petitioner's brother Ulysses Cawaling; and
>
> - The cancellation of the tax declaration in the name of complainant Noraida San Sebastian Cesar's parent in favor of petitioner's brother-in-law, Marcelo Molina.

On these points, we quote, with approval, the findings of the Court of Appeals for being supported by evidence on record.

> Going first to the alleged irregularity accompanying the issuance of tax declarations in favor of petitioner's brother Ulysses Cawaling, the former's asseverations that she had nothing to do with the processing of the subject tax declarations is simply unacceptable. As municipal assessor, one of petitioner's duties was to keep a correct record of all transfers, leases and mortgages of real property (par. [4] f, Sec. 159, Article VI, Chapter 3, Title II, Book II of the Local Government Code) within her jurisdiction. Thus, even if petitioner had no hand in the processing of her brother's tax declaration, she should have seen to it that the records pertaining thereto are in order. Furthermore, the annotation on her brother's tax declaration that the same property is also declared in the name of another person and that all of them are paying the realty taxes thereon should have cautioned petitioner to take the necessary steps to set records right. Under par. [4] h, (ibid.) the municipal assessors, in such a situation, are suppose to cancel assessments, in case several assessments have been made for the same property, except the one properly made, but if any assessee or his representative shall object to the cancellation of the assessment made in his name, such assessment shall not be cancelled but the fact shall be noted on the tax declaration and assessment rolls and other property books of records. Preference, however, shall be given to the assessment of the person who has the best title to the property, or in default thereof, of the person who has possession of the property (id.). On this score alone, petitioner is already liable for gross neglect of duty, which is also penalized by dismissal at the first offense (Sec. 22 [b], Rule XIV of the Omnibus Rule [supra]).
>
> Secondly, petitioner's vacillation on whether it was Teodulo Matillano or Leticia Barrientos Berbano who executed a deed of absolute sale in favor of her brother Ulysses Cawaling further weakens her defense. Petitioner, in her written answer, claimed that both Teodulo Matillano and Ulysses Cawaling have deeds of absolute sale over the same parcel of land (vide par. [4], Annex "G," supra). In the course of investigation, however, petitioner claimed before the investigating body that Teodulo Matillano executed a deed of absolute sale in favor of her brother (vide, p. 8, Annex "N," supra). Thereafter petitioner claimed that it was a certain

> Leticia Barrientos Berbano who executed the deed of absolute sale in favor of her brother (vide, Annex "J," supra). . . .
>
> With respect to the irregularity involving the tax declarations of petitioner's brother-in-law, Marcelo Molina, no better evidence can be presented to support petitioner's dismissal for dishonesty than the questioned tax declarations themselves (vide, pp. 87 & 88, ibid.). Both tax declarations indicated that the declarations therein where subscribed to under oath by the declarant before herein petitioner on August 15, 1996, in effect canceling Antipaz San Sebastian's tax declaration on even date. However, the same tax declarations indicate that the taxes due thereon (i.e., land tax, transfer tax & capital gain tax) were paid only in October of the same year or two months after the tax declarations have already been issued in favor of petitioner's brother-in-law. Under Article 224 [b] of the Rules and Regulations Implementing the Local Government Code, no tax declaration shall be cancelled and a new one issued in lieu thereof unless the transfer tax has first been paid.
>
> The issuance of new tax declarations in favor of petitioner's brother and brother-in-law effectively cancels the tax declarations of the complainants. Article 299[c] of the Rules of Regulations Implementing the Local Government Code, provides that:
>
> "In addition to the notice of transfer, the previous property owner shall likewise surrendered to the provincial, city, or municipal assessor concerned, the tax declaration covering the subject property in order that the same maybe cancelled from the assessment records of the LGU. x x x."

Thus, the tax declaration of complainants Noraida San Sebastian and Teodulo Matillano must first be surrendered before herein petitioner could effectively cancel their respective tax declarations and issue new ones in favor of her brother and brother-in-law. Unfortunately, herein petitioner failed to present the complainants' cancelled tax declarations. She did not even allege that the same had been surrendered to her for cancellation.[33]

In addition, petitioner admitted using the deed of sale allegedly executed by Lilia Barrientos in favor of Cawaling in transferring the Tax Declaration in the name of her brother Ulysses Cawaling. However, glaring in the record is the admission by the petitioner in her petition[34] and memorandum[35] that the property was still under litigation, as both Matillano and Barrientos continue to take their claims over it. Clearly, therefore, she had no right, or reason, to pre-empt judgment on who is the lot's rightful owner who can legally dispose the same. Prudence dictates that, under the situation, she should have refrained from taking any course of action pending the court's final determination of this matter.

In Philippine Amusement and Gaming Corporation v. Rilloza,[36] dishonesty was understood to imply a "disposition to lie, cheat, deceive, or defraud; unworthiness; lack of integrity." Dishonesty is considered as a grave offense punishable by dismissal for the first offense under Section 23, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws. It is beyond cavil that petitioner's acts displayed want of honesty.

IN ALL, we affirm the finding of the Court of Appeals that petitioner is guilty of acts of dishonesty. Her acts of cancelling the tax declarations of Antipas San Sebastian and Teodulo Matillano in favor of her close relatives without complying with the requirements set under the law constitute grave acts of dishonesty.

WHEREFORE, the instant petition is hereby DENIED. The Court of Appeals Decision dated 31 May 2000 and its subsequent Resolution dated 21 November 2000, dismissing petitioner from service, are hereby AFFIRMED. With costs.


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**SO ORDERED.**

Austria-Martinez, (Acting Chairman), Callejo, Sr., and Tinga, JJ., concur.
Puno, (Chairman), J., on official leave.

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[1] Penned by Justice Fermin A. Martin, Jr. and concurred in by Justice Salvador J. Valdez, Jr., and Justice Remedios A. Salazar-Fernando.

[2] Records, pp. 35-36.

[3] CA Rollo, p. 37.

[4] CA Rollo, p. 39.

[5] CA Rollo, p. 40.

[6] CA Rollo, p. 41.

[7] CA Rollo, p. 42, Affidavit.

[8] CA Rollo, p. 43, Affidavit.

[9] CA Rollo, p. 44.

[10] CA Rollo, pp. 48-57.

[11] CA Rollo, p. 58.

[12] CA Rollo, pp. 60-64, Resolution No. 973602 dated 12 August 1997.

[13] CA Rollo, pp. 65-77.

[14] CA Rollo, pp. 101-104, Resolution No. 980129 dated 20 January 1998.

[15] CA Rollo, pp. 117-123.

[16] Rollo, p. 14.

[17] Corona v. United Harbor Pilots Association of the Philippines, G.R. No. 111953, 12 December 1997, 283 SCRA 31.

[18] Fabella v. Court of Appeals, G.R. No. 110379, 28 November 1997, 282 SCRA 256.

[19] Delano T. Padilla v. Hon. Patricia Sto. Tomas, et.al., G.R. No. 109444, 31 March 1995, 243 SCRA 155.

[20] George Salonga v. Court of Appeals, G.R. No. 111478, 13 March 1997, 269 SCRA 534.

[21] Fabella v. Court of Appeals, supra, note 18.

[22] Luzviminda De La Cruz v. Department of Education, Culture and Sports-Cordillera Administrative Region, Ma. Elena Princena, Myrna Bayabos, Ofrina Benabese, Regina Potolin, Melba Lingayo, Elizabeth Castillo, Rosalinda Bilgera and Ernesto Callena, G.R. No. 146739, 16 January 2004, 420 SCRA 113.

[23] Wilfredo M. Talag v. Judge Amor A. Reyes, Regional Trial Court of Manila, Branch 21, A.M. No. RTJ-04-1852, 03 June 2004.

[24] Jose Salunday and Danilo Maniquiz v. Justice Eugenio S. Labitoria, A.M. No. CA-01-31, 25 July 2002, 385


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SCRA 200.

[25] Spouses Leopoldo Hizon and Perlita Dela Fuente v. Spouses Gigi Dela Fuente, et al., G.R. No. 152328, 23 March 2004, 426 SCRA 211.

[26] Aleria, Jr. v. Velez, G.R. No. 127400, 16 November 1998, 298 SCRA 611.

[27] Revised Rules of Court, Rule 131, Section 3(m).

[28] Avancena v. Liwanag, A.M. No. MTJ-01-1383, 17 July 2003, 406 SCRA 300; Emin v. De Leon, G.R. No. 139794, 27 February 2002, 378 SCRA 143.

[29] Pizza Hut/Progressive Development Corporation v. NLRC, G.R. No. 117059, 21 January 1996, 252 SCRA 531.

[30] Rollo, p. 20.

[31] San Juan, Jr. v. Sangalang, Adm. Matter No. P-00-1437, 06 Febrauary 2001, 351 SCRA 210.

[32] Francisco Reyno v. Manila Electric Company, G.R. No. 148105, 22 July 2004.

[33] Rollo, pp. 32-33.

[34] Rollo, p. 20.

[35] Rollo, p. 176.

[36] 412 Phil 118, 133 (2001); G.R. No. 141141, 25 June 2001, 359 SCRA 525.


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