

**TOMAS G. VELASQUEZ, OFFICER-IN-CHARGE, OFFICE OF THE
SCHOOL SUPERINTENDENT, DECS – DIVISION OF ABRA; MARIETTA
BERSALONA, CHAIRPERSON, DECS – FACT FINDING COMMITTEE;
EDUARDO RUPE...**

G.R. No. 150732. August 31, 2004

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TINGA, J.:

Subject of the consolidated petitions is the Decision of the Court of Appeals in CA-G.R. SP No. 61081, entitled *Helen B. Hernandez v. Tomas G. Velasquez*, promulgated on 07 November 2001.[1] The assailed Decision annulled and set aside the twin resolutions issued by the Civil Service Commission (CSC for brevity), in Administrative Case No. 97-45 filed against respondent Hernandez. The CSC, in its Resolution No. 00-1375 dated 13 June 2000, found respondent Hernandez guilty of dishonesty and grave misconduct and ordered her dismissal from the service, with all the accessory penalties including her perpetual disqualification from holding public office. In Resolution No. 00-2064 dated 07 September 2000, the CSC denied respondent's motion for reconsideration of Resolution No. 00-1375.

Stripped of non-essentials, the following are the factual antecedents:

In a letter dated 25 September 1996, the Assistant Schools Division Superintendent of the DECS-CAR, (Cordillera Administrative Region) sent a letter to petitioner (in G.R. No. 150732) Tomas G. Velasquez, informing him of the alleged infractions committed by respondent, Helen B. Hernandez, such as soliciting, accepting, and receiving sums of money, in exchange for transfer or promotion of complainant teachers. Acting on the letter, petitioner Velasquez convened a fact-finding committee to determine the veracity of the alleged violations of respondent and to render a formal report and recommendation.

On 26 September 1996, the Committee composed of members assigned at the DECS-Division of Abra, summoned to a meeting the teachers who have grievances against respondent. Based on the sworn statements of the teachers, namely: Elena Princena, Myrna Bayabos, Mildred Millare, Ofrina Benabese, Emilia Beralde, Ruby Bringas, Regina Potolin, spouses Ernesto Callena, Jr. and Ma. Louisa Callena, Irene Bermudez, Francisco Castillo, Elizabeth Castillo, Maribel Medrano, Benigna Bulda, Irene Viado, Cecilia Turqueza, Catherine Badere, Rosalinda Bilgera, Nardita Tuscano, Henry Bisquera, Melba Linggayo, and Maritess Navarro, it appears that respondent demanded and/or received money in various amounts from the teachers in consideration of their appointment, promotion, and transfer from one school to another.

On 15 November 1996, the Committee issued an Investigation Report recommending the filing of administrative and criminal complaints against respondent. On 14 March 1997, a formal charge for Grave Misconduct, Conduct Grossly Prejudicial to the Best Interest of the Service, Abuse of Authority, and Violation of Section 22 (k) Omnibus Rules Implementing Book V of E.O. 292 and other related laws was filed against respondent.

On 24 March 1997, respondent filed her Answer to the charges. In the main, she contended that the charges are brazen fabrications and falsehoods made by parties with ulterior motives which are designed to harass her in a

systematic campaign to discredit her. Respondent likewise alleged that the preparation and taking of the statements of the supposed 23 counts of irregularity leveled against her were attended by coercion and fraud.

Meanwhile, the Office of the Provincial Prosecutor of Abra issued a Resolution in I.S. No. 97-003 entitled, "People of the Philippines v. Helen Hernandez, et.al." This Resolution, which arose from the sworn complaints filed by the complaining teachers, indicted respondent and a certain Luzviminda de la Cruz for violation of Section 3(b), Republic Act No. 3019 otherwise known as the Anti-Graft and Corrupt Practices Act. The Resolution of the Provincial Prosecutor was affirmed with modification by the Office of the Deputy Ombudsman for Luzon in its Review Action dated 6 November 1997. Under the modified indictment, respondent and dela Cruz were charged with direct bribery. However, upon motion filed by respondent and her co-accused, the Office of the Deputy Ombudsman in its Order dated 24 February 1998, reconsidered and set aside its Review Action dated 6 November 1997, and ordered the withdrawal of Informations for direct bribery filed against respondent and de la Cruz.

After due proceedings, the CSC issued Resolution No. 00-1375, dated 13 June 2000, finding respondent guilty of the charges against her and ordering her dismissal from the service. The motion for reconsideration filed by respondent was denied by the CSC in its Resolution No. 00-2064 dated 7 September 2000.

Respondent appealed to the Court of Appeals raising the following issues:

- 1) Whether or not the CSC erred in assuming jurisdiction and/or in rendering judgment adverse to her;
- 2) Whether or not the CSC erred in rendering judgment against her in violation of her right to due process in administrative proceedings;
- 3) Whether or not the CSC erred in its appreciation of the evidence on record and;
- 4) Whether or not the CSC erred in imposing the penalty of dismissal.[2]

The appellate court, in its now assailed Decision, reversed the resolutions of the CSC. It opined that when petitioners filed a formal charge against respondent, it was incumbent upon them to inform the Civil Service Commission that another case was filed before the Office of the Deputy Ombudsman for Luzon considering that the facts and circumstances from which both complaints stem are the same. Citing Section 13 (1) of Article XI of the 1987 Constitution, and Section 19 and 21 of Republic Act No. 6770, the appellate court added that the CSC and the Office of the Ombudsman have concurrent original jurisdiction over administrative cases filed against any government employee. Thus, it ruled that the effects of *res judicata* or *litis pendentia* may not be avoided by varying the designation of the parties, changing the form of the action, or adopting a different mode of presenting one's case.

Anent the issue of violation of respondent's right to due process, the appellate court stressed that it is not enough that the twin requisites of notice and hearing be present. It is important that the tribunal hearing the case must be unbiased; indeed, if the government official or employee under investigation is not afforded the opportunity to present his case before a fair, independent, and impartial tribunal, the hearing would be futile. Considering that the composition of the fact-finding Committee is in question, the appellate court concluded that it cannot properly be said that there was a fair and impartial hearing of the petitioner's case.

The appellate court also ruled that petitioner failed to discharge the burden of proving by substantial evidence the averments of the complaint because it appears that some affiants who executed sworn statements to support the charges against respondent later retracted their statements and executed new statements, alleging that they were merely induced to testify against respondent. It also noted that some of the complaining teachers even failed to appear in the investigation to confirm their respective sworn statements. The appellate court, therefore, annulled

and set aside the Resolutions of the CSC and ordered the payment of backwages to respondent.

Separate appeals via petition for review were filed before this Court by petitioner Velasquez, in his capacity as Officer-in Charge, Office of the School Superintendent, DECS-Division of Abra (G.R. No.150732) and the Civil Service Commission (G.R. No. 151095), assailing the decision of the appellate court. The two petitions were ordered consolidated in a Resolution of this Court dated 25 June 2002. G.R. No. 150732, assigned to the Third Division of this Court, was ordered consolidated with G.R. No. 151095, an En Banc case even if the first mentioned petition has a lower docket number considering that both cases involve resolutions of the Civil Service Commission.

The issues in both petitions are substantially the same.

In G.R. No. 150732, petitioner raised the following issues:

I.

THE COURT OF APPEALS GRAVELY ERRED IN DECLARING THAT THE FORMAL CHARGE WHICH WAS FILED BY THE CSC AGAINST THE RESPONDENT SHOULD CONTAIN A CERTIFICATION OF NON-FORUM SHOPPING.

II.

THE COURT OF APPEALS GRAVELY ERRED IN DECLARING THAT RESPONDENT'S RIGHT TO ADMINISTRATIVE DUE PROCESS WAS VIOLATED.

III.

THE COURT OF APPEALS GRAVELY ERRED IN DECLARING THAT THE EVIDENCE AGAINST THE RESPONDENT WAS INSUFFICIENT.

IV.

THE COURT OF APPEALS GRAVELY ERRED IN ORDERING THE REINSTATEMENT OF THE RESPONDENT AND THE PAYMENT OF HER BACKWAGES.[3]

On the other hand, the following issues were raised by the CSC in G.R. No. 151095:

I.

WHETHER OR NOT THE FORMAL CHARGE SHOULD CONTAIN A CERTIFICATE AGAINST FORUM SHOPPING;

II.

WHETHER OR NOT THE CSC ERRED IN RENDERING JUDGMENT AGAINST RESPONDENT IN VIOLATION OF THE LATTER'S RIGHT TO DUE PROCESS IN ADMINISTRATIVE PROCEEDINGS;

III.

WHETHER OR NOT THE CSC ERRED IN ITS APPRECIATION OF THE EVIDENCE ON RECORD AND FINDING RESPONDENT GUILTY OF THE OFFENSES CHARGED.[4]

In both cases, petitioners asseverate that under Section 21 of the Uniform Rules of Procedure in the Conduct of Administrative Investigations (CSC Resolution No. 99-1936, dated 31 August 1999), it is the complaint and the not the formal charge which should contain a certification of non-forum shopping. The Office of the Solicitor General strongly argues that the formal charge was filed, not by the complaining teachers or the DECS

Fact-Finding Committee, but by the CSC-CAR and it would thus be unnecessary to require a certification of non-forum shopping considering that the CSC is the sole arbiter of all contests relating to the Civil Service and it would be absurd for the CSC-CAR to file the same administrative case against respondent in another forum. The OSG adds that there was no need for the CSC-CAR to inform the CSC about the criminal action for Direct Bribery in OMB-1-96-2757 because the said action was not filed by the CSC-CAR.

The CSC on the other hand, argues that what was filed with the Office of the Ombudsman is a criminal case and while the facts therein may be similar to the pending administrative case, the Office of the Ombudsman and the CSC will not rule on the same cause of action or grant the same relief. According to the CSC, there is no possibility of having conflicting decisions as the two cases are distinct from each other.

Petitioners dispute the Court of Appeals' finding that respondent's right to administrative due process was violated. Respondent can hardly be said to have been deprived of due process as she was given the chance to answer the charges, to submit countervailing evidence, and to cross-examine the witnesses against her. The mere fact that respondent questioned the impartiality of the fact finding committee will not automatically result in a denial of due process because what matters is that respondent had actively participated in the proceedings against her. Petitioners add that respondent's culpability was not based solely on the report of the fact-finding committee, but also on the evidence submitted by the respondent which, unfortunately, was found wanting.

Succinctly, petitioners argue that the appellate court erred in holding that the evidence they presented to establish the culpability of the respondent is insufficient. The finding is based merely on the retraction of the sworn statements of some three teachers and the failure of three others to appear during the formal investigation. Petitioners stress that a majority of the complainant teachers remained consistent in their claim that respondent actually and directly received from them various amounts of money in exchange for their appointment, promotion, or transfer. They add that the dismissal of the criminal action against respondent in OMB-1-96-2757 cannot be treated as a bar to the administrative case primarily because administrative liability is distinct from penal liability. In conclusion, petitioners fault the appellate court for reversing the factual findings of the CSC, ordering the reinstatement of respondent, and awarding backwages in her favor.

Upon the other hand, respondent would have the Court sustain the Decision of the appellate court exonerating her of all the charges in the administrative case. Citing CSC Resolution No. 95-3099, respondent argues that even on the assumption that a certificate of non-forum shopping is not necessary in the formal charge, petitioners nevertheless failed to show that the complaint filed by the teachers contained the required certification of non-forum shopping. She theorizes that since it is the CSC-CAR which filed the formal charge against her, it would be difficult to imagine that the CSC will make a turn around and take a position contrary to its earlier findings that a prima facie case against her exists. Respondent insists that to allow the CSC to exercise jurisdiction over the case would be similar to allowing one person to act as prosecutor and judge at the same time.

In support of the appellate court's Decision, respondent maintains that it correctly ruled that there was no fair and impartial hearing of her case before the fact-finding committee. She contends that the integrity of the fact-finding committee is questionable considering that the chairperson of the committee is a relative of one of the complainant teachers, Ms. Immaculada Bringas, who incidentally would be the next in rank if she is ousted from her position. Finally, she adds that petitioners are urging this Court to review the factual findings of the appellate court which cannot be done in the instant petition which must raise only questions of law.

The Court rules for the petitioners.

CSC Resolution No. 95-3099 dated 9 May 1995 (Further Amended by CSC Resolution No. 99-1936, dated 31 August 1999), amending Section 4 of CSC Resolution No. 94-0521, Series of 1994, provides:

“Section 4. Complaint in Writing and Under Oath - No complaint against a civil servant shall be given due course, unless the same is in writing and under oath.

The complaint should be written in a clear, simple and concise language and in a systematic manner as to apprise the civil servant concerned of the nature and cause of the accusation against him and to enable him to intelligently prepare his defense or answer.

The complaint shall also contain the following:

(a) xxx xxx xxx xxx

(b) xxx xxx xxx xxx

(c) xxx xxx xxx xxx

(d) a statement that no other administrative action or complaint against the same party involving the same acts or omissions and issues, has been filed before another agency or administrative tribunal. In the absence of any one of the requirements therein stated, the complaint shall be dismissed. (Underscoring supplied)

The appellate court placed much reliance on the above-quoted provision of CSC Resolution No. 95-3099 in relation to Section 5, Rule 7 of the 1997 Rules of Civil Procedure, when it ruled that it was incumbent upon petitioner (in G.R. No. 150732) to inform that another case was filed before the Office of the Deputy Ombudsman for Luzon. Strikingly, the appellate court failed to state in its Decision the person or entity which petitioner must notify of the pending case with the Ombudsman. The appellate court then cited a litany of cases on forum shopping and concluded that petitioner's failure to state in the formal charge that there is no other action or complaint pending against herein respondent constitutes a violation of the rule against forum shopping that merited the dismissal of the complaint. It ratiocinated that since the facts and circumstances from which both complaints stem from are the same, petitioners should have attached in their complaint the certificate of non-forum shopping. Inconsistently, however, the appellate court was quick to add that the cause of action in the CSC and the Office of the Deputy Ombudsman are distinct; nevertheless, it said that in order to obviate the risk of violating the rule, petitioners should have attached the certification against non-forum shopping.

The Court finds the above disquisition unsound.

Forum shopping consists of filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment.[5] It may also consist in a party against whom an adverse judgment has been rendered in one forum, seeking another and possibly favorable opinion in another forum other than by appeal or special civil action of certiorari.[6]

The most important factor in determining the existence of forum shopping is the vexation caused the courts and parties-litigants by a party who asks different courts to rule on the same or related causes or grant the same or substantially the same reliefs. A party, however, cannot be said to have sought to improve his chances of obtaining a favorable decision or action where no unfavorable decision has ever been rendered against him in any of the cases he has brought before the courts.[7]

In not a few cases, this Court has laid down the yardstick to determine whether a party violated the rule against forum shopping as where the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in the other.[8] Stated differently, there must be between the two cases (a) identity of parties; (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and (c) that the identity of the two preceding particulars is such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.[9]

It is significant to note that the action filed before the CSC-CAR is administrative in nature, dealing as it does

with the proper administrative liability, if any, which may have been incurred by respondent for the commission of the acts complained of. In stark contrast, the case filed before the Office of the Deputy Ombudsman for Luzon, which incidentally was not initiated by herein petitioners but by the complainant teachers, deals with the criminal accountability of the respondent for violation of the Anti-Graft and Corrupt Practices Act. Unmistakably, the rule on forum shopping would find no proper application since the two cases although based on the same essential facts and circumstances do not raise identical causes of action and issues.[10] It would, therefore, be absurd to require the certification of forum shopping to be attached to the formal charge filed before the CSC, for the evil sought to be curbed by the proscription against forum shopping is simply not extant in the instant case.

On the issue of her having been denied administrative due process, the Court likewise finds respondent's claim untenable.

The essence of due process is that a party be afforded a reasonable opportunity to be heard and to present any evidence he may have in support of his defense or simply an opportunity to be heard;[11] or as applied to administrative proceedings, an opportunity to seek a reconsideration of the action of ruling complained of.[12] One may be heard, not solely by verbal presentation but also, and perhaps even many times more creditably than oral argument, through pleadings. Technical rules of procedure and evidence are not even strictly applied to administrative proceedings, and administrative due process cannot be fully equated to due process in its strict judicial sense.[13]

In fact in *Pefianco v. Moral*,[14] the Court had the occasion to rule that a respondent in an administrative case is not entitled to be informed of the findings and recommendations of any investigating committee created to inquire into charges filed against him – he is entitled only to the administrative decision based on substantial evidence made of record, and a reasonable opportunity to meet the charges and the evidence presented against him during the hearing of the investigation committee. It is the administrative resolution, not the investigation report, which should be the basis of any further remedies that the losing party in an administrative case might wish to pursue.

Respondent had been amply accorded the opportunity to be heard. She was required to answer the formal charge against her and given the chance to present evidence in her behalf. She actively participated in the proceedings and even cross-examined the witnesses against her. Clearly, based on the above jurisprudential pronouncements the appellate court's finding that respondent was denied due process is utterly without basis.

Administrative proceedings are governed by the "substantial evidence rule." [15] A finding of guilt in an administrative case would have to be sustained for as long as it is supported by substantial evidence that the respondent has committed the acts stated in the complaint or formal charge. As defined, substantial evidence is such relevant evidence as a reasonable mind may accept as adequate to support a conclusion.[16] This is different from the quantum of proof required in criminal proceedings which necessitates a finding of guilt of the accused beyond reasonable doubt. The Ombudsman, in ordering the withdrawal of the criminal complaints against respondent was simply saying that there is no evidence sufficient to establish her guilt beyond reasonable doubt which is a condition sine qua non for conviction. Ergo, the dismissal of the criminal case will not foreclose administrative action against respondent.

In the instant case, this Court is of the view that the sworn complaints of the twenty remaining complainants coupled with their positive testimonies in the proceedings below, more than adequately complies with the standard of proof required in administrative cases. The desistance executed by three (3) out of the twenty-three(23) original complainants is of no moment since administrative actions cannot be made to depend upon the will of every complainant who may, for one reason or another, condone a detestable act.[17]

All told, the Court holds that respondent's guilt in the administrative case has been sufficiently established and

pursuant to existing Civil Service Rules and Regulations,[18] her dismissal from the service is warranted.

WHEREFORE, the instant consolidated petitions are hereby GRANTED. The assailed Decision of the Court of Appeals is hereby REVERSED and SET ASIDE. Costs against the respondent.

SO ORDERED.

Davide, Jr., C.J., Quisumbing, Ynares-Santiago, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Chico-Nazario, JJ., concur.

Puno, Panganiban, Sandoval-Gutierrez, and Carpio, JJ., on official leave.

[1] Penned by Justice Teodoro P. Regino, concurred in by Justices Eugenio S. Labitoria and Rebecca de Guia-Salvador, Seventh Division. Rollo, pp. 41-57.

[2] Id. at 46.

[3] Rollo, pp. 21-22.

[4] Rollo, p. 15.

[5] Leyson, Jr. v. Office of the Ombudsman, G.R. No. 134990, April 27, 2000, 331 SCRA 227.

[6] Bangko Silangan Development Bank v. Court of Appeals, G.R. No. 110480, June 29, 2001, 360 SCRA 322; Philippine Economic Zone Authority v. Vianzon, G.R. No. 131020, July 20, 2000, 336 SCRA 309; Progressive Development Corporation, Inc. v. Court of Appeals, G.R. No. 123555, January 22, 1999, 301 SCRA 637.

[7] Roxas v. Court of Appeals, G.R. No. 139337, August 15, 2001, 363 SCRA 207.

[8] Manalo v. Court of Appeals, G.R. No. 141297, October 8, 2001, 366 SCRA 752; United Residents of Dominican Hill, Inc. v. Commission on the Settlement of Land Problems, G.R. No. 135945, March 7, 2001, 353 SCRA 782; Ayala Land, Inc. v. Valisno, G.R. No. 135899, February 2, 2000, 324 SCRA 522; Saura v. Saura, Jr. G.R. No. 136159, September 1, 1999, 313 SCRA 465; Prubrangers Association v. Prudential Bank & Trust Company, G.R. No. 131247, January 25, 1999, 302 SCRA 74.

[9] Benedicto v. Court of Appeals, G.R. No. 125359, September 4, 2001, 364 SCRA 334.

[10] Yulienco v. Court of Appeals, G.R. No. 131692, June 10, 1999, 308 SCRA 206.

[11] Pilipinas Loan Company, Inc. v. Securities and Exchange Commission, G.R. No. 104720, April 4, 2001, 356 SCRA 193; Philippine Airlines, Inc. v. National Labor Relations Commission, 4th Division, G.R. No. 115785, August 4, 2000, 337 SCRA 286; Orola v. Alovera, G.R. No. 111074, July 14, 2000, 335 SCRA 609; Tubiano v. Razo, G.R. No. 132598, July 13, 2000, 335 SCRA 531; National Police Commission v. Bernabe, G.R. No. 129914, May 12, 2000, 332 SCRA 74.

[12] Adiong v. Court of Appeals, G.R. No. 136480, December 4, 2001, 371 SCRA 373; Vda. de Dela Cruz, et al. v. Abille, G.R. No. 130196, February 26, 2001, 352 SCRA 691 (2001).

[13] Ocampo v. Office of the Ombudsman, G.R. No. 114683, January 18, 2000, 322 SCRA 17.

[14] G.R. No. 132248, January 19, 2000, 322 SCRA 439.

[15] Ocampo v. Ombudsman, *supra*, note 13.

[16] Western Shipyard Services, Inc. v. Court of Appeals, G.R. No. 110340, May 28, 2001, 358 SCRA 257; San

Juan, Jr. v. Sangalang, Adm. Matter No. P-00-1437, February 6, 2001, 351 SCRA 210.

[17] Agulan, Jr. v. Fernandez, A.M. No. MTJ-01-1354, April 4, 2001, 356 SCRA 162.

[18] Section 52, (A) (1) (3), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service in relation to Section 22(k), Rule IV, Omnibus Rules Implementing Book V of Executive Order No. 292.

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