

SPL. POL. LT. RAMON. TORREDES, PETITIONER, VS. CARLOS VILLAMOR, RESPONDENT.

G.R. No. 151110. September 11, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

Before us is a petition for review on certiorari challenging the Court of Appeals (CA) Resolution[1] in CA-G.R. SP No. 61819 which dismissed the petition for review under Rule 43 of the Rules of Court, filed by petitioner, Special Police Lieutenant Ramon C. Torredes, for failure to implead therein as respondent the Philippine Economic Zone Authority (PEZA).

The undisputed facts follow.

In a memorandum dated September 8, 1998,[2] the Zone Administrator of the Mactan Economic Zone (MEZ), Dante M. Quindoza, informed petitioner of the charges leveled against him by the president and members of the MEPZA Drivers' Association, namely, respondent Carlos Villamor, Joel Pino, Warden Sinangguti and Alex Goblin. The four had executed joint affidavits narrating petitioner's weekly exaction of P1,000.00 from the drivers' association allegedly for the payment of parking fees. However, the weekly exactions were not covered by official receipts. Villamor, president of the drivers' association, initially agreed to such arrangement to facilitate the issuance of the identification card signed by petitioner, as the Deputy Station Commander of the MEZ Police Force, for use at the PEZA compound.

In addition, the joint affidavits narrated an incident wherein petitioner handed a letter to Sinangguti demanding one (1) lechon (roasted pig) from the drivers' association for his birthday celebration. Fed up, the drivers' association, led by their president Villamor, discontinued the payment of the P1,000.00 weekly exaction and did not provide the roasted pig demanded by petitioner. Thus, on September 2, 1998, upon seeing Sinangguti, petitioner pushed him and simultaneously threatened him with bodily harm.

In the same memorandum, Quindoza directed petitioner to explain in writing why no administrative case(s) should be filed against him for the complaints of the drivers' association. In compliance with Quindoza's directive, petitioner filed an Explanation[3] categorically denying the charges leveled by the drivers' association. Petitioner explained that in the discharge of his duties and responsibilities as Deputy Station Commander of MEZ, specifically the strict enforcement of both the PEZA's and the Land Transportation Office's (LTO's) rules and regulations on cleanliness and traffic, he invariably caught the ire of the drivers' association whose members allegedly constantly violated these rules and regulations.

After the preliminary investigation and dissatisfied with the explanation of petitioner, PEZA formally charged petitioner with violation of Section 46(4)[4] and (27),[5] Chapter 6, Subtitle A, Title I, Book V, of Executive Order No. 292, otherwise known as the Administrative Code of 1987, docketed as Administrative Case No. 98-008.

In its decision,[6] the PEZA found petitioner liable not only for grave misconduct, but also for conduct grossly prejudicial to the best interest of the service. Correspondingly, petitioner was meted the penalty of dismissal from the service. The PEZA held, thus:

The very essence of tong collection is the personal unlawful gain at the expense of another by the abuse of one's authority. Verily, [petitioner] abused his being a Deputy Station Commander by unlawfully demanding for a weekly amount of PhP1,000.00 for his personal gain. Even the demand for one (1) lechon is a form of tong.

It was clearly established that upon assuming his post as Deputy Station Commander of the MEZ Police, [petitioner] immediately summoned the President of the drivers' association. Right there and then [petitioner] demanded PhP1,000.00 tong per week from the said association for his personal gain. Whenever the association failed to give said tong, [petitioner] resorted to harassment and threats to the lives of the members of said association. This definitely is a grave misconduct.

On record are pieces of direct evidence proving the [petitioner's] harassment/threats. These are the two (2) IDs of Messrs. Sinangguti and Campos. During the hearing, it was certainly determined that the [petitioner] tore these IDs to harass/threaten the owners thereof for failure to give his PhP1,000.00 tong.

[Were] it not for the fact that the [petitioner] already became physical in his harassment/threats to life, it is believed that these drivers will not come out in the open and expose his nefarious activities. It was only when the [petitioner] physically attacked one (1) of the drivers that the association thought the [petitioner] is really capable of making good his threats to their lives.

The acts complained of do not only constitute grave misconduct, they are also conduct grossly prejudicial to the best interest of the service. Moreover, these acts could even be a basis for criminal prosecution.

By committing these violations, the [petitioner] betrayed the very trust reposed upon him as the Deputy Station Commander, the second in command in the MEZ Police Force. He, therefore, willfully chose to be unfaithful to his trust thereby causing undue damage to the image of the public service. It must be noted that "holders of government positions are mere trustees who are duty-bound and expected to serve the public with the highest standards of responsibility, integrity, loyalty and efficiency" (CSC Resolution No. 94-1758, March 29, 1994), and as this Authority has been emphasizing, honesty.

[Petitioner] should have kept in mind that he is an employee of that agency of government, which is involved in the noble task of rendering service. His conduct and behavior should perforce be circled around the norms of honesty and integrity.

x x x x

This Authority has always been guided by the principle that "when a public officer or employee is administratively disciplined, the ultimate objective is not the punishment of such public officer or employee, but the improvement of public service and the preservation of the people's faith and confidence in their government." [7]

Aggrieved, petitioner appealed the PEZA decision to the Civil Service Commission (CSC). In its resolution,[8] the CSC affirmed the PEZA ruling dismissing petitioner from the service, thus:

After a careful evaluation of the records of the case, the [CSC] finds the appeal bereft of merit.

As defined, Grave Misconduct is a flagrantly or shamefully wrong or improper conduct. It is a transgression of some established and definite rule of action, more particularly unlawful or corrupt behavior or gross negligence by the public officer.

Based on the records of the case, [petitioner] Torredes was found to have committed the following acts which

are clearly unbecoming of a public officer of his stature: demanding and personally receiving a weekly "tong" amounting to One Thousand Pesos (P1,000.00) from the MEPZA Driver's Association; ordering Sinangguti to produce a lechon for his [petitioner's] birthday; and, pushing and threatening Sinangguti with bodily harm. These were established by the prosecution through the direct, positive, and categorical testimonies of its witnesses. Said testimonies cannot be easily overthrown by the [petitioner's] mere denial. It is a basic rule in evidence that a negative testimony cannot prevail over a positive one. Besides, factual findings of administrative agencies are accorded not only respect but finality because of the special knowledge and expertise gained by these quasi-judicial tribunals handling specific matters falling under their jurisdiction.

Further, there was no evidence on record to prove [petitioner's] allegation as to the ill-motive of the complainants in filing the charges against him. Besides, the said witnesses would not ordinarily testify against the [petitioner] unless there is some truth in their testimony.[9]

Undaunted and as previously adverted to, petitioner appealed to the CA via a petition for review under Rule 43 of the Rules of Court which was dismissed for petitioner's failure to implead and furnish PEZA a copy of his appeal.

Petitioner now implores us to reverse the CA's dismissal of his appeal, positing that: (1) PEZA, being the first investigating and disciplining authority, is not an adverse party within the contemplation of Rule 43 of the Rules of Court; and (2) assuming that PEZA is the adverse party, petitioner's failure to implead PEZA in, and furnish it with a copy of, his appeal before the CA does not merit the immediate dismissal thereof.

Petitioner argues that the CA erred in strictly applying procedural rules, thereby dismissing his appeal outright. He insists that compelling reasons obtain which should exempt him from the strict application of technical rules of procedure.

In all, petitioner maintains that the named respondent herein, i.e., Villamor, and not PEZA, is the adverse party required by Rule 43 of the Rules of Court to be impleaded in the appeal and furnished with a copy thereof. Petitioner extensively cites the Administrative Code of 1987 provisions in Book V, Title I, Constitutional Commission; Subtitle A, Civil Service Commission; and Chapter 6, Sections 46 to 49 on Discipline, Disciplinary Jurisdiction, Procedure in Administrative Cases and Appeals, to prove that the PEZA is simply the investigating and, subsequently, the disciplining authority in this case. Perforce, since PEZA was not the original complainant but herein respondent Villamor and his drivers' association, petitioner argues that PEZA cannot be an adverse party in the appeal before the CA.

We do not subscribe to petitioner's faulty logic. Petitioner's contention conveniently ignores the administrative nature of this case and his position as a public officer.

The fact that petitioner occupies a public office brooks no argument. A public office is defined as the right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the appointing power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public.[10] The purpose and nature of public office is grounded on it being a public trust. No less than the Constitution states:

SECTION 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.

Unmistakably, petitioner is a public officer whose duties, not being of a clerical or manual nature, involve the exercise of discretion in the performance of the functions of government.[11] In turn, PEZA, which was created to effect and promote the common good, is petitioner's employer, an instrumentality of the government. Thus, PEZA first investigated and ascertained the veracity of the drivers' association's complaint against petitioner. Thereafter,

finding petitioner liable for gross misconduct and conduct prejudicial to the best interest of the service, PEZA, as the disciplining authority, meted the penalty of dismissal prescribed by law.

PEZA is not simply the disciplining authority in this instance. When petitioner appealed the PEZA decision to the CSC, he effectively challenged the disciplinary action taken by PEZA against him. Even at that point, PEZA already became a party that could be adversely affected by the decision therein. His appeal from the CSC to the CA, which could have resulted in the reversal of the PEZA decision and the affirmation thereof by the CSC, would have adversely affected PEZA. Therefore, in the CSC and CA cases, neither respondent Villamor nor the drivers' association, but PEZA, was the adverse party contemplated by Rule 43 of the Rules of Court. Thus, it was necessary for the petitioner to implead PEZA.

More importantly, the acts complained of against petitioner, who, to reiterate, is a public officer, gave rise to threefold liability, specifically, civil, criminal and administrative liability. Entrenched in jurisprudence is the rule that the wrongful acts or omissions of public officers may result in three separate liabilities with the action for each proceeding independently of the others.[12] Likewise, the quantum of evidence required in each case is different.

By this principle, the jettisoning of the petition is inevitable upon a close perusal of the merits of the case. Petitioner's gross misconduct, coupled with the commission of conduct prejudicial to the public interest, was proven by the quantum of evidence required in administrative cases - substantial evidence, which we are not wont to disturb. Petitioner's plaintive cry for the relaxation of the rules of procedure is unavailing in light of the established facts.

Our ruling in *Remolona v. Civil Service Commission*[13] pertinently holds, thus:

The general rule is that where the findings of the administrative body are amply supported by substantial evidence, such findings are accorded not only respect but also finality, and are binding on this Court. It is not for the reviewing court to weigh the conflicting evidence, determine the credibility of witnesses, or otherwise substitute its own judgment for that of the administrative agency on the sufficiency of evidence. Thus, when confronted with conflicting versions of factual matters, it is for the administrative agency concerned in the exercise of discretion to determine which party deserves credence on the basis of the evidence received. The rule, therefore, is that courts of justice will not generally interfere with purely administrative matters which are addressed to the sound discretion of government agencies unless there is a clear showing that the latter acted arbitrarily or with grave abuse of discretion or when they have acted in a capricious and whimsical manner such that their action may amount to an excess of jurisdiction.

WHEREFORE, premises considered, the petition is **DISMISSED**. The decision of the Philippine Economic Zone Authority in Administrative Case No. 98-008, and Resolution Nos. 1439 and 2143 of the Civil Service Commission dismissing petitioner from the service, are hereby **AFFIRMED**. No costs.

SO ORDERED.

Tinga[*], Chico-Nazario(Acting Chairperson), Velasco, Jr.[*], and Reyes, JJ., concur.

[*] Designated additional members in lieu of Associate Justices Consuelo Ynares-Santiago and Ma. Alicia Austria-Martinez per Special Order No. 517 dated August 27, 2008.

[1] Rollo, pp. 148-149.

[2] Id. at 30.

[3] Id. at 33-39.

[4] (4) Misconduct.

[5] (27) Conduct prejudicial to the best interest of the service.

[6] Rollo, pp. 67-79.

[7] Id. at 77-78.

[8] Id. at 120-126.

[9] Id. at 125-126.

[10] DE LEON AND DE LEON JR., THE LAW ON PUBLIC OFFICERS AND ELECTION LAW, 2000 Edition, p. 1.

[11] INTRODUCTORY PROVISIONS OF THE ADMINISTRATIVE CODE OF 1987, Sec. 2(14).

[12] Lourdes T. Domingo v. Rogelio I. Rayala, G.R. Nos. 155831, 155840, 158700, February 18, 2008.

[13] 414 Phil. 590, 601 (2001).

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