

INOCELIA S. AUTENCIO, PETITIONER, VS. CITY ADMINISTRATOR, RODEL M. MAÑARA AND THE CITY OF COTABATO, RESPONDENTS.

G.R. NO. 152752. January 19, 2005

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The essence of due process in administrative proceedings is simply the opportunity to explain one's side or to seek a reconsideration of the action or ruling complained of. Furthermore, the counsel's actions and mistakes on procedural matters bind the client. On the other hand, the complainant's manifestations or representations on questions of law do not bind the decision makers or the courts.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, challenging the September 12, 2001 Decision[2] of the Court of Appeals (CA) in CA-GR SP No. 56061. The dispositive portion of the Decision reads as follows:

“WHEREFORE, premises considered, the instant petition is dismissed for lack of merit and the assailed resolution of the CSC is affirmed in its entirety.”[3]

Petitioner also assails the February 8, 2000 CA Resolution[4] denying her Motion for Reconsideration.

The Facts

The CA summarized the facts in this manner:

“On December 27, 1996, City Administrator Rodel M. Mañara lodged a complaint against petitioner Inocelia S. Autencio with the Office of the City Mayor for dishonesty and misconduct in office. The complaint alleged that on the third week of October 1996, Riza Bravo, an employee of the City Assessor's Office charged with the preparation of the payroll of casual employees, changed the September 1996 payroll prepared by her upon the order of petitioner. The first prepared payroll for the said month reflected five (5) days attendance of seven (7) casual employees. It was made to appear in the second prepared payroll that the seven casual employees worked for the whole month of September. Despite the fact that the seven casual employees rendered services only for five days for the month of September and two weeks for the month of October 1996, the petitioner directed them to prepare and reflect in their respective daily time records full attendance for the months in question. The petitioner told them that one-half of their salaries for the month of September 1996 will be deducted as their contributions for the Christmas party of their office and that this matter will be a surprise for the regular employees and must be kept secret among themselves.

“Mrs. Bravo personally collected the salaries of the seven casual employees from the City Treasury Office upon instruction of the petitioner on October 28, 1996, and distributed to them only one-half of their salary and gave the remainder to the petitioner.

“Pending investigation of the administrative complaint, on January 2, 1997, petitioner was preventively

suspended for a period of ninety (90) days.

“After x x x hearing, the Office for Legal Services of the City of Cotabato, on June 30, 1997, issued a resolution/decision which was approved by the City Mayor Ludovico D. Badoy, declaring the petitioner guilty of misconduct in office for allowing irregularities to happen which led to illegal payment of salaries to casuals. However, as regards to the charge of dishonesty, the same was found wanting due to insufficiency of evidence. A penalty of forced resignation with forfeiture of retirement benefits except for earned leave accumulated before the filing of the complaint was imposed.

“The petitioner appealed the said resolution to the Civil Service Commission (CSC). On June 9, 1998, the CSC issued Resolution No. 981413 modifying the decision of the City Mayor to grave misconduct and imposed on her the penalty of dismissal for cause with all its accessories. Petitioner moved for reconsideration but the CSC on September 21, 1999 issued Resolution No. 99-2135 denying the same.”[5]

In her Motion for Reconsideration of CSC Resolution No. 98-1413, petitioner alleged that she had waived her right to present her evidence at a formal hearing and agreed to submit the case for resolution, only because of the manifestation of the complainant and the hearing officer that she could be held liable only for the lesser offense of simple negligence.

On September 21, 1999, the CSC issued Resolution No. 99-2135 denying her Motion. According to the CSC, regardless of whether she agreed to submit the case for resolution, the fact remains that she caused the changes in the payroll of the seven casuals and made it appear that they had worked for the full month of September.

Raising the issues of whether she was denied due process and whether the penalty imposed by the CSC was “harsh,” petitioner elevated the case to the CA.

On September 12, 2001, the CA affirmed the CSC Resolutions. Petitioner filed a Motion for reconsideration, appending thereto the Manifestation of incumbent Cotabato City Mayor Datu Muslimin G. Sema. The mayor stated therein that, based on the records, petitioner had been misled into waiving her right to a formal hearing; and that he had no objection to the reopening of the case. On February 8, 2002, the CA denied reconsideration.

Ruling of the Court of Appeals

Ruling that petitioner had not been denied due process, the CA reasoned that “the requirements of due process are satisfied when the parties are afforded fair and reasonable opportunity to explain their side of the controversy.” Petitioner was given this opportunity -- records show that she was informed of the formal charges against her; she was able to file her Answer as well as documents evidencing her claim; and she was represented by a lawyer during the pre-hearing conference. The CA said that “[t]he failure of petitioner and her counsel to take full advantage of the opportunity to be heard does not change the fact that they were accorded such opportunity.” One may be heard not only through oral argument but also through pleadings.

The CA likewise held that the penalty imposed by the CSC was not “harsh.” It affirmed the CSC’s finding that the evidence had sufficiently shown her grave misconduct in allowing the irregularities leading to the illegal payment of salaries to casuals. Pursuant to the Omnibus Rules Implementing Book V of the Administrative Code of 1987, the commensurate penalty for such serious offense is dismissal from the service.

Hence, this Petition.[6]

Issue

The lone issue raised by petitioner in her Memorandum involves a pure question of law:

“x x x [W]as the petitioner deprived of substantial due process?”

The Court's Ruling

The Petition is devoid of merit.

Lone Issue: Denial of Substantial Due Process

Petitioner insists that she waived her right to a formal hearing, only because she was made to believe that she would be liable for the lesser offense of simple negligence. She relies emphatically on the Manifestation of the incumbent city mayor of Cotabato stating that an injustice was committed against her because she had been deceived to the point that she waived her right to present evidence. According to her, this Manifestation constituted a judicial admission that the present counsel of the city government did not object to, and that the appellate court should have taken into consideration.

We find no merit in petitioner's contention. The legal presumption is that official duty has been duly performed.[7] Government officials are presumed to have regularly performed their functions;[8] and strong evidence is necessary to rebut this presumption.[9] The Manifestation is insufficient to overturn this principle. It contains mere conclusions, not statements of fact.

In the court -- not the witnesses or the parties -- lies the duty of drawing legal conclusions from the evidence presented. Significantly, the author of the Manifestation was not the city mayor[10] at the time the investigation of petitioner's case was conducted. How could he have known about the alleged misrepresentation? Petitioner did not explain.

Fraud is never presumed; it must be established by clear and convincing evidence.[11] In the present case, apart from the Manifestation, there is no clear evidence of fraud. While respondent's counsel did not object to the admission of the Manifestation, the leeway to consider and assess its probative value[12] nonetheless lay in the appellate court.

In her original appeal to the CSC, petitioner did not raise the issue of respondent's alleged misrepresentation, which had allegedly induced her to agree to submit the case for resolution without any formal hearing. Instead, she merely questioned the harshness of the penalty imposed by the City Government. Failure to invoke a defense within the prescribed period constitutes a waiver thereof.[13] Defenses not invoked below cannot be raised on appeal.[14]

In waiving the presentation of evidence in a formal hearing, the counsel of petitioner might have believed in the futility of resisting the charge; thus, he opted to waive her right to present evidence. That he allegedly relied on respondent's statement that she could be held liable only for the lesser offense of simple negligence was a risk he took on her behalf. It is jurisprudentially settled that mistakes of counsel as to argumentation, the relevancy or irrelevancy of a certain evidence or the introduction thereof are -- among others -- all mistakes of procedure that bind the client.[15]

At this point, we stress that complaints against public officers and employees relating or incidental to, or in connection with, the performance of their duties are necessarily impressed with public interest.[16] The need to maintain the faith and confidence of the people in the government demands that the proceedings in administrative cases should not be made to depend on the whims and caprices of complainants.[17]

Administrative proceedings are akin to criminal prosecutions in the sense that no compromise may be entered into between the parties as regards the penal sanction. Complainants are not vested with the power of removal or suspension. That prerogative belongs to the proper government officials.

Moreover, in a real sense, complainants in administrative cases are just witnesses.[18] Therefore, regardless of

their desistance or representations, courts will not desist from imposing the appropriate disciplinary sanction, if the evidence so warrants.[19] If administrative actions are made to depend upon the whim or will of complainants, the disciplining authorities and the courts would be stripped of their prerogative.[20]

We agree with the CA that petitioner was afforded due process. On the formal charge against her, she had received sufficient information which, in fact, enabled her to prepare her defense. She filed her Answer controverting the charges against her and submitted Affidavits of personnel in the Assessor's Office to support her claim of innocence. A pre-hearing conference was conducted by the legal officer, during which she -- assisted by her counsel -- had participated. Finally, she was able to appeal the ruling of City Mayor Badoy to the CSC, and then to the CA.

In administrative cases, a fair and reasonable opportunity to explain one's side suffices to meet the requirements of due process.[21] A formal or trial-type hearing is not always necessary.[22] For the purpose of ascertaining the truth, an investigation will be conducted, during which technical rules applicable to judicial proceedings need not always be adhered to.[23] And where the party has the opportunity to appeal or seek reconsideration of the action or ruling complained of, defects in procedural due process may be cured.[24]

Finally, settled is the rule in our jurisdiction that the findings of fact of an administrative agency must be respected, so long as they are supported by substantial evidence.[25] It is not the task of this Court to weigh once more the evidence submitted before the administrative body and to substitute its own judgment for that of the latter in respect of the sufficiency of evidence.[26] In any event, the Decisions of the CSC and the Court of Appeals finding petitioner guilty of the administrative charge prepared against her are supported by substantial evidence.

WHEREFORE, the Petition is DENIED and the assailed Decision and Resolution AFFIRMED. Costs against petitioner.

SO ORDERED.

Sandoval-Gutierrez, Corona, Carpio-Morales and Garcia, JJ., concur.

[1] Rollo, pp. 3-17.

[2] Annex "C" of Petition; id., pp. 30-34. Penned by Justice Elvi John S. Asuncion and concurred in by Justices Oswaldo D. Agcaoili (chairman of the Special Seventeenth Division) and Juan Q. Enriquez Jr. (acting member).

[3] CA Decision, p. 5; id., p. 34.

[4] Rollo, p. 36.

[5] CA Decision, pp. 1-2; id., pp. 30-31.

[6] This case was deemed submitted for decision on May 25, 2004, upon this Court's receipt of petitioner's Memorandum, signed by Atty. V. Emmanuel C. Fontanilla. Respondents' Memorandum, signed by Atty. Datu Mando V. Sinsuat Jr., was received on May 17, 2004.

[7] §3 (m), Rule 131, Rules of Court.

[8] Sps. Romero v. Tan et al., GR No. 147570, February 27, 2004; Corpuz v. Siapno, 404 SCRA 83, June 17, 2003; Columbus Philippines Bus Corporation v. NLRC, 417 Phil. 81, September 7, 2001.

[9] Agpalo, The Law of Public Officers (1st ed., 1998), p. 190.

- [10] The city mayor at the time was Hon. Bandoy, while the incumbent city mayor who made the Manifestation was Hon. Sema.
- [11] *Cathay Pacific Airways, Ltd. v. Sps. Vazquez*, 399 SCRA 207, March 14, 2003; *Maestrado v. Court of Appeals*, 384 Phil. 418, 435, March 9, 2000; *Loyola v. Court of Appeals*, 383 Phil. 171, February 23, 2000.
- [12] See *Bitong v. Court of Appeals*, 354 Phil. 516, July 13, 1998.
- [13] *Mendoza v. Civil Service Commission*, 233 SCRA 657, July 5, 1994.
- [14] *Remman Enterprises, Inc. v. CA*, 335 Phil. 1150, February 26, 1997; *Manila Bay Club Corp. v. CA*, 315 Phil. 805, July 11, 1995; *Reparations Commission v. Visayan Packing Corp., et al.*, 193 SCRA 531, February 6, 1991.
- [15] *Mobil Oil Philippines, Inc. v. Court of First Instance of Rizal, Branch VI*, 208 SCRA 523, May 8, 1992.
- [16] *Sy v. Academia*, 198 SCRA 705, July 3, 1991.
- [17] *Estreller v. Manatad Jr.*, 335 Phil. 1077, February 21, 1997.
- [18] *Ibid.*
- [19] *Abenojar v. Lopez*, 203 Phil. 385, November 2, 1982.
- [20] *Ibid.*
- [21] *Rubenecia v. CSC*, 314 Phil. 612, May 31, 1995; *Padilla v. Sto. Tomas*, 312 Phil. 1095, March 31, 1995; *Esber v. Sto. Tomas*, 225 SCRA 664, August 26, 1993 (citing *Mutuc v. Court of Appeals*, 190 SCRA 43, September 26, 1990; *Var-Orient Shipping Co., Inc. v. Achacoso*, 161 SCRA 732, May 31, 1988).
- [22] *Padilla v. Sto. Tomas*, *supra* (citing *Mutuc v. Court of Appeals*, *supra*).
- [23] §48, Subtitle A, Title I, Book V, 1987 Administrative Code.
- [24] *Cordenillo v. Executive Secretary*, 342 Phil. 618, August 4, 1997; *Casuela v. Office of the Ombudsman*, 276 SCRA 635, August 4, 1997; *Rubenecia v. CSC*, *supra*; *Esber v. Sto. Tomas*, *supra*.
- [25] *Remolona v. Civil Service Commission*, 414 Phil. 590, August 2, 2001.
- [26] *Ibid*; *Rubenecia v. CSC*, *supra*.

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