

TERESITA L. VERTUDES, PETITIONER, VS. JULIE BUENAFLOR AND BUREAU OF IMMIGRATION, RESPONDENTS.*G.R. NO. 153166. December 16, 2005*

Ponente: PUNO, J.

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PUNO, J.:

Before us is a petition for review by certiorari under Rule 45 of the Rules of Court, seeking to review and set aside the decision[2] and resolution[3] of the Court of Appeals (CA), which affirmed the decision of the Civil Service Commission (CSC) finding petitioner guilty of grave misconduct and dismissing her from government service.

Petitioner Teresita L. Vertudes was a fingerprint examiner at the Alien Registration Division of the Bureau of Immigration (BI). In a facsimile letter[4] dated July 27, 1998, a certain Peng Villas, a news editor of the Philippine Weekly Newspaper, referred to then BI Commissioner Rufus Rodriguez the complaints of private respondent Julie Buenaflor, Amy Cosino and Manuelito Lao, against petitioner.

According to Villas, private respondent Buenaflor complained of having been convinced by petitioner into paying the total amount of P79,000.00 in exchange for the processing of her visa, passport and other travel documents for Japan. Private respondent delivered to petitioner Security Bank (SB) Check Nos. 0014797 and 0014798 in the amounts of P30,000.00 and P20,000.00, respectively, and cash worth P29,000.00. However, no visa was delivered. Private respondent insisted that petitioner return her money, to no avail.

Villas also referred to Commissioner Rodriguez the complaint of Lao who allegedly told him that he paid P60,000.00 to petitioner in exchange for a Chinese Visa and a passport for Taiwan. Likewise, Villas referred Cosino's complaint that the latter collected from Virfinia Dumbrique, Jaime Santos Flores and Mariano Evangelista, the amounts of P20,000.00 each, upon petitioner's word that they would be in exchange for tourist visas. Both Lao and Cosino claimed that the promised passport and visas did not materialize and despite many requests for the return of the amounts paid to petitioner, she refused to comply. Allegedly, "Vertudez threatened them that they cannot force her to pay back the said amount as she has the back up [of] higher BID officials."

Acting upon Villas' letter, Commissioner Rodriguez issued a memorandum,[5] directing the petitioner to submit a sworn written explanation. In her sworn written memorandum,[6] petitioner assailed the credibility of Villas. She alleged that Villas was not a member of the National Press Club as he claimed to be. She averred that the sum of P50,000.00, as evidenced by SB Check Nos. 0014797 and 0014798, was extended to her by private respondent Buenaflor as a loan. She was constrained to borrow money from private respondent and other close friends when her brother became seriously ill. However, she claimed that she had fully settled her obligation to private respondent through installment. She also claimed that private respondent was the one engaged in illegal recruitment through the use of falsified or forged passports. Private respondent was allegedly using petitioner's name in dealing with some immigration officials and employees to expedite the processing of the documents of her (private respondent's) clients. Petitioner allegedly informed said officers and employees that she was not

connected to private respondent in any way. Private respondent allegedly resented this "abrupt disassociation." Also, her repeated refusal to "escort" private respondent's clients who were leaving for abroad using falsified travel documents allegedly led private respondent to threaten her that she could easily use SB Check Nos. 0014797 and 0014798 as evidence to file charges against petitioner by making it appear that she (private respondent) gave the money because of petitioner's promise to facilitate her travel to Japan. Petitioner denied having received the sum of P29,000.00 from private respondent, contending that such claim is "pure falsehood because of the absence of document to prove the alleged receipt." As regards the complaints of Lao and Cosino, petitioner denied having met or known said persons.

Finding petitioner's explanation "unsatisfactory and [her] defense weak," Commissioner Rodriguez issued Personnel Order No. RBR 98-60,[7] preventively suspending her for sixty (60) days pending the investigation of the case. The instant case was assigned to Special Prosecutor Norberto dela Cruz, who issued a subpoena[8] ordering private respondent and petitioner to appear before him on October 15, 1998 for the formal investigation of the case. It appears that in the meantime, Villas died and private respondent personally took on the instant complaint with the BI for Grave Misconduct against petitioner, docketed as Administrative Charge No. 0004. Lao and Cosino filed their respective complaint-affidavits[9] with the BI which became the subject of another administrative case against petitioner.[10]

On August 21, 1998, petitioner filed a Motion for Reconsideration (Re: Personnel Order No. RBR-98-60) with Motion to Dismiss.[11] On September 2, 1998, petitioner filed a Manifestation with Urgent Prayer to Resolve Motion to Dismiss,[12] averring that the complaint instituted by Villas in behalf of private respondent was a harassment case against her. Petitioner sought the dismissal of the instant action on the ground that in addition to the instant administrative case, private respondent had personally filed her complaint-affidavit "of similar nature and character" with the Manila City Prosecutor's Office, docketed as 98-H-44000-1, and with the Office of the Ombudsman, docketed as OMB-98-1701.

Private respondent narrated the pertinent events in her complaint-affidavit[13] as follows:

- That I met Ms. Teresita Vertudes, an employee of the Bureau of Immigration and Deportation, Intramuros, Manila sometime in the middle part of 1996;
- That from that time on, we became friends because we come from the same region and that she used to tell us that she is capable of deploying job applicants to Japan;
- That during one of those times that I dropped by her office, she intimated to me that a group of Immigration Officers are scheduled to leave for Japan for training and that she was the one who received a call from a Japanese Consul;
- That Ms. Teresita Vertudes asked me if I am interested in going to Japan because she will find a way to accommodate me and I told her that I am deeply interested but my problem was that my passport was left in Bacolod City and she volunteered to work-out [and] facilitate the processing of my passport and visa and that [all] I need to do is give her my picture which I did;
- That she even added that she has a brother in Japan who could also help me find a job and I will be going there along with her son, Jimmy V[er]tudes Santos. She showed to me her son's passport and application for a Visa, copies of which are attached and marked as Annexes "A", "B" and "C";
- That according to Ms. Vertudes I will be receiving a salary of one lapad per day as a factory worker and that should I accept to her offer, all that will be required of me is to give her the amount of P80,000.00;
- That on December 24, 1997 Ms. Vertudes received from me Security Bank Check No. 0014797 in the amount of P30,000.00 which she was able to encash and likewise Security Bank Check No. 0014798 in the

amount of P20,000.00 x x x Annexes "D" and "E";

- That on February 8, 1998, because of her insistence and persistence that I should deliver the balance of P30,000.00 to her so that I could leave in a week's time, I was forced to produce the said amount by requesting a friend to pawn my jewelry in the amount of P29,000.00 and the aforesaid amount was handed to Ms. Vertudes in the presence of Ms. Joy Gutierrez at her office in (BID), Intramuros, Manila;

- That after that last payment, I have been asking her as to when I am suppose[d] to leave because I was already prepared to leave and have in fact told my relatives and friends that I will be leaving soon for Japan but she did not stop making promises;

- That upon the advi[c]e of a lawyer and to be able to know once and for all whether I could still leave, I requested my lawyer to write a letter to Ms. Vertudes for her to refund the sums of money which I delivered to her in the total amount of P79,000.00 for the processing of my Passport and Visa for job deployment abroad but she did not even answer the letter and neither called up my lawyer to explain her side; letter is attached as Annex "E";

- That for Ms. Teresita Vertudes' failure to make good her promise to deploy me after receiving the amount of P79,000.00 in consideration of a job placement in Japan, I hereby charge her for the crime of Illegal Recruitment and Estafa; x x x

Annexed to private respondent's complaint-affidavit were: a) the affidavit of a certain Jessilyn Gutierrez[14] who attested that she accompanied private respondent in going to the office of petitioner and she was with private respondent when the latter delivered to petitioner the checks amounting to P50,000.00 and cash worth P29,000.00 for private respondent's job placement to Japan; b) copies of the passport and application for a visa of petitioner's son, to prove that petitioner showed these documents to her so she would believe that she would be going to Japan with petitioner's son; c) copies of SB Check Nos. 0014797 and 0014798, to prove petitioner's receipt of the total amount of P50,000.00 from private respondent; and d) letter of private respondent's counsel to petitioner demanding the refund of P79,000.00 from petitioner.

On October 15, 1998, petitioner, accompanied by her counsel, and private respondent appeared before Special Prosecutor dela Cruz for the formal investigation of the case.[15] The second hearing took place on October 27, 1998, during which, petitioner submitted her Counter-Affidavit[16] and the affidavits of her witnesses. Her version was:

4.1. I first met Ms. Buenaflor sometime in 1996 when I was still assigned at the General Services Division of the Bureau of Immigration;

4.2. At that time, Ms. Buenaflor represented to me that she was connected with a travel agency assigned to process/facilitate documents of their clients in the Buereau of Immigration;

4.3. Indeed, I saw Ms. Buenaflor processing and making follow-ups of documents in the different Divisions/Departments of the Bureau of Immigration similar to what were being done by the representatives of other travel agencies transacting business therewith;

4.4. During that period, Ms. Buenaflor and me became close friends because she frequently visited me in my office at General Services Division and would even stay thereat while processing documents and waiting for their release. In fact, she often took her lunch and merienda with me and sometimes, with the other employees of our division;

4.5. Sometime in the third week of December 1997, I was informed by my relatives in our hometown that my brother, Mariano "Dido" Vertudes was seriously ill and was thereafter confined on December 22, 1997 at Gingoog General Hospital located at Gingoog City, Misamis Oriental;

4.6. The type of illness of my brother required extensive treatment and medication; and for this reason, they requested for financial assistance to defray the expenses therefor;

4.7. Since I was then in financial distress, I was constrained to borrow money with interests from Ms. Buenaflor and other close friends of mine. As a kind gesture on the part of Ms. Buenaflor she extended to me a loan in the total amount of P50,000.00 as represented by Security Bank check nos. 0014797 and 0014798 in the respective amounts of P30,000.00 and P20,000.00 (citation omitted);

4.8. It is however our agreement that I would pay the amount of P50,000.00 with the additional amount of P10,000.00 representing the interests therefore for a total of P60,000.00;

4.9. We further agreed that I would pay my financial obligation to Ms. Buenaflor on or before the last day of May 1998 from December 1997 on installment basis;

4.10. With the aforementioned amount of P50,000.00 loaned to me by Julie Buenaflor and the other amounts x x x from other friends, I was able to contribute the total amount of P100,000.00 for the treatment and hospitalization of my brother. It was, however, to no avail because my brother died on January 6, 1998;

4.11. Pursuant to our agreement, I was able to pay Ms. Buenaflor on installment basis the total amount of P60,000.00 at my earlier indicated address on the following dates:

DATE AMOUNT

February 28, 1998 P15,000.00

March 31, 1998 15,000.00

April 30, 1998 15,000.00

May 30, 1998 15,000.00

4.12. I tendered the said payments to Ms. Buenaflor at my residence on the dates earlier enumerated in the presence of my housemaids, Eliza Compo and Jocelyn Reyes; x x x

Petitioner averred that private respondent misrepresented to her (petitioner's) son, Jimmy Santos, Jr., that she (private respondent) would facilitate his travel to and employment in Japan. She also assailed the credibility of private respondent by accusing her of using several passports under different names. Attached to petitioner's counter-affidavit were: a) a copy of a passport application in the name of Honna Sumadia Araneta showing the photographs of private respondent; b) referral slip of the Pasay City Police Station and the sworn statement of a certain Armando Gambala charging private respondent with Estafa and Illegal Recruitment;^[17] c) affidavits of petitioner's son, Jimmy Santos, Jr.,^[18] and a certain Enrico Tuazon, showing that they likewise filed a case for Estafa and Illegal Recruitment against private respondent; and d) a copy of the Certificate of Business Name and Certification^[19] issued by Prudential Bank, to prove that private respondent misstated the address of her business establishment. Petitioner also submitted to Special Prosecutor dela Cruz the Pinagsamang Sinumpaang Salaysay^[20] of her two housemaids, Eliza Compo and Jocelyn Reyes, to prove that she had fully paid her obligation to private respondent. Likewise, she submitted the handwritten joint sworn statement^[21] of Ernesto V. Cloma and Jhun M. Romero, media practitioners, to prove that Villas asked for petitioner's forgiveness before he died, admitting that he only sent his letter dated July 27, 1998 to Commissioner Rodriguez in consideration of the amount given by private respondent.

On the same hearing, the parties agreed to submit the instant case for resolution.^[22] Thus, in his Resolution dated November 12, 1998,^[23] Special Prosecutor dela Cruz found petitioner guilty of grave misconduct and recommended her dismissal from the service.

Meantime, the case instituted by private respondent with the Office of the Ombudsman was referred to the Office of the City Prosecutor, thus:

After evaluation, the undersigned finds that the charges imputed against the respondent are not office related and that the administrative aspect of the case had already been undertaken by the Bureau of Immigration.

In view thereof, it is respectfully recommended that the instant complaint be referred to the Office of the City Prosecutor of Manila for appropriate action.

SO ORDERED.[24] (emphases supplied)

Petitioner filed a Motion to Re-open[25] with the BI, contending that the finding of the Ombudsman that "the charges imputed against [petitioner] are not office related" clearly shows that she is not administratively liable for grave misconduct. She moved for the re-opening of the case "to allow her to adduce further evidence mainly based on the findings of the Ombudsman." The motion, however, was denied for lack of merit.[26]

On January 12, 1999, Commissioner Rodriguez issued an order, adopting the resolution of Special Prosecutor dela Cruz, viz:

WHEREFORE, respondent Teresita L. Vertudez is hereby found liable for grave misconduct under PD No. 807 and the Administrative Code of 1987. Accordingly, she is ordered dismissed from the service effective immediately with forfeiture of all benefits under the law, with prejudice to her reinstatement in this Bureau and all its branches.

SO ORDERED.[27]

The order quoted the pertinent portion of Special Prosecutor dela Cruz's resolution, viz:

After carefully weighing and evaluating the versions of the complainant and the respondent, this Office is more incline[d] to give credence to complainant's declarations that she was indeed duped by the respondent into parting with the hard-earned money of P79,000.00 on the promise of the respondent that she would secure a passport and visa for the complainant to Japan.

Respondent's alibi that the said amount was a loan from the complainant, who is her friend, is highly unbelievable. Complainant does not appear to be a rich person who would so easily part with such big amount of money without any security without any hope or assurance of being re-paid.

The fact that complainant paid P79,000.00 to the respondent so she could get a passport and a visa to work in Japan as a factory worker clearly showed that she was desperately in need of a job. For her to give such amount to the respondent as an unsecured loan is extremely incredulous.

Respondent's claim that the present complaint is pure harassment by the complainant is completely bereft of credence. What benefit or advantage would the complainant achieve in fabricating charges against the respondent?

If the complainant filed this complaint, it was because she was wronged by the respondent.

Likewise, respondent's allegation that the P50,000.00 she received from the complainant was a loan because she (respondent) was then in a financial distress and she needed money to help her sick brother in the province was belied by her own son, Jimmy V. Santos, Jr., who declared in his Affidavit that sometime in December 1997, he gave P50,000.00 to the complainant so that the latter could obtain a tourist visa for him to Japan. Why should the respondent bother to get a P50,000.00 loan from the complainant to assist her ailing brother when she could readily obtain this amount from her own son?

As to respondent's assertion that she was able to pay the P50,000.00 to the complainant, there is nothing to

support such payment. The statements of her two (2) maids -- Eliza C[o]mpo and Jocelyn Reyes -- in their Sinumpaang Salaysay that respondent paid to the complainant the total amount of P60,000.00 during the months of February 1998 to May 1998 cannot be believed. Being the housemaids of the respondent, it is but natural and to be expected of these persons to come to the aid of their employe[r].[28]

Petitioner filed a Motion for Reconsideration and/or New Trial,[29] reiterating her argument in her Motion to Re-open. Again, the motion was denied.[30] Subsequently, the assailed order of dismissal was affirmed by then Department of Justice Secretary Serafin Cuevas.[31]

Petitioner appealed to the CSC,[32] raising the issues of lack of due process and lack of substantial evidence. On November 19, 1999, the CSC dismissed petitioner's appeal. It held, in part, that:

A careful study of the records in the light of the arguments of appellant reveals that the requirements of due process have been duly observed in the proceedings had in this case.

x x x

As to the second issue, the Commission finds substantial evidence to prove that respondent receive[d] money in exchange for her services in facilitating the issuance of passport and visa of Julie Bernardo (sic).

The complaint-affidavit of Julie Buenaflor is reproduced in part as follows: x x x

In the absence of any improper motive or malice on the part of the witness to foist said charges on respondent, the Commission is inclined to give credence to the statements of witness Bernardo (sic). In fact Vertudez has admitted that she received money from Buenaflor but argued that the money was a mere loan. However, if this were true, Buenaflor should have demanded for a collateral, considering the amount involved. Vertudez failed to present any evidence that she gave any security in return for said loan which makes her version highly incredible. x x x[33]

Petitioner filed a motion for reconsideration[34] of the CSC's Resolution, to no avail. The CSC held:

In so far as Vertudez[s] illegal recruitment activities are concerned, the Commission finds the existence of clear substantial evidence to establish the same. Evidence presented all point to the fact that Vertudez solicited money from BI clients in return for a visa to Japan. The witnesses against Vertudez include Peng Villas (Deceased), Julie Buenflor (sic), Amy Cosino, Virginia Lubriano, Manuelito Lao and Jaime Santos Flores. The affidavits of said witnesses all speak of the modus operandi of Vertudez at the BI, where she approaches BI clients and offers them a visa, passport and an employment contract in exchange for P120,000.00. In the case of witness Julie Buenaflor, she testified that respondent assured her of a visa, a passport and a job in Japan for a fee of P80,000.00 and that Vertudez after getting paid failed to fulfill her promise.

It is observed that Vertudez seeks to destroy the credibility of witness Buenaflor by implying that the former has a pending case for illegal recruitment and estafa. Records, however, show that the charges against witness Buenaflor all came up after Vertudez was formally charged by the BI and that such charges have no reasonable connection with her administrative case pending before the Commission. In this regard, "There being nothing in record to show that witnesses were actuated by any improper motive, their testimony shall be entitled to full faith and credit." (People v. Flores, 252 SCRA 31)[35]

Thereafter, petitioner filed a petition for review before the CA, raising the issues of: a) whether or not the BI and CSC violated petitioner's right to due process; b) whether or not respondents erred in finding that the alleged illegal recruitment activity of the petitioner had a direct relation to and connected with the performance of her duties and responsibilities as an employee of the BI; and c) whether or not there is substantial evidence to support the finding that petitioner is an illegal recruiter, thus, warranting her removal from public service.[36]

On February 12, 2002, the CA dismissed the petition for lack of merit. The CA found that "petitioner was given

more than ample opportunity to ventilate her defense and disprove the charges leveled against her, hence, there can be no denial of her right to due process." [37] Moreover, it held that "there is more than substantial evidence proving the charge of grave misconduct against petitioner." [38] The CA ratiocinated that:

In the proceedings a quo, it was established that petitioner, indeed, received and encashed the two (2) checks given by private respondent in the total amount of Php50,000.00. This fact, therefore, gives credence to the claim of private respondent that she gave petitioner two (2) checks in consideration of the latter's promise to facilitate her employment abroad. This being the case, the burden was shifted to petitioner to refute this established fact through equally weighty and competent evidence.

Now, petitioner admitted having received, and encashed, the two checks from private respondent but offered the excuse that the same was extended to her as a loan. Aside from her testimony and that of her household helpers to prove this assertion, no other independent and unbiased evidence was offered to prove the fact of loan. As it is, her theory of loan stands on flimsy ground and is not sufficient enough to overthrow the fact established by complainant. This considering that it is highly improbable and even contrary to human experience for a person to loan a huge amount of money as Php50,000.00 without any document evidencing such loan nor a collateral to secure its payment. Note even that the two checks were made payable to "cash," a bearer instrument, and was not even crossed on its face, hence, can be encashed by any person holding the negotiable instrument. If, indeed, private respondent gave the two checks to petitioner as a clean loan (without any collateral) without any separate document embodying their loan agreement, the latter should have at least been made the payee of the checks and a memorandum written at the back of the check to the effect that it is being extended as a loan, in order to protect the interest of the lender. This is conventional business practice which is altogether absent in the case at bar, hence, petitioner's theory of loan must necessarily crumble. [39]

Petitioner filed a Motion for Reconsideration, [40] contending that the CA failed to resolve the issue of whether petitioner's alleged illegal recruitment activities are directly connected with her duties and responsibilities as a Fingerprint Examiner of the BI. This motion was denied. [41]

Undaunted, petitioner filed this petition, summing up the issues as follows:

- WHETHER OR NOT THE HONORABLE SUPREME COURT MAY REVIEW THE DECISION OF THE COURT OF APPEALS IN CA-G.R. SP NO. 58766;
- WHETHER OR NOT THE COURT OF APPEALS RESOLVED THE SECOND ISSUE RAISED IN THE PETITION FOR REVIEW FILED BEFORE IT;
- WHETHER OR NOT THERE IS SUBSTANTIAL EVIDENCE TO SUPPORT THE FINDINGS THAT PETITIONER IS GUILTY OF GRAVE MISCONDUCT;
- WHETHER OR NOT A PROMISE TO FACILITATE EMPLOYMENT OF ANOTHER ABROAD CONSTITUTES GRAVE MISCONDUCT[;]
- WHETHER OR NOT PETITIONER WAS ACCORDED DUE PROCESS;
- WHETHER OR NOT THE ACT CONSTITUTING GRAVE MISCONDUCT MUST HAVE A DIRECT RELATION TO THE FUNCTION OF THE PUBLIC OFFICE HELD BY RESPONDENTS IN ADMINISTRATIVE CASES; AND
- WHETHER OR NOT THE ALLEGED ACT COMMITTED BY THE PETITIONER IS DIRECTLY RELATED TO ANY OF HER FUNCTIONS AS FINGERPRINT EXAMINER AT THE BUREAU OF IMMIGRATION. [42]

The petition is denied.

We shall first resolve the issue of due process. Petitioner contends that the essential requirements of due process as laid down in *Ang Tibay v. Court of Industrial Relations*[43] and *Doruelo v. COMELEC*[44] were violated in the case at bar. First, she contends that she was denied of her right to a full hearing when she was not accorded the opportunity to cross-examine the witnesses against her, as provided under Section 48, par. 5, Title I, Book V of the Administrative Code of 1987. She allegedly raised this issue in her appeal before the CSC.[45]

The argument is unmeritorious.

We have explained the meaning of the right to cross-examination as a vital element of due process as follows:

The right of a party to confront and cross-examine opposing witnesses in a judicial litigation, be it criminal or civil in nature, or in proceedings before administrative tribunals with quasi-judicial powers, is a fundamental right which is part of due process. However, the right is a personal one which may be waived expressly or impliedly by conduct amounting to a renunciation of the right of cross-examination. Thus, where a party has had the opportunity to cross-examine a witness but failed to avail himself of it, he necessarily forfeits the right to cross-examine and the testimony given on direct examination of the witness will be received or allowed to remain in the record.[46] (emphasis supplied)

In the case at bar, petitioner cannot argue that she was deprived of due process simply because no cross-examination took place. Nothing on record shows that petitioner asked for cross-examination during the formal investigation conducted by Special Prosecutor dela Cruz. Notably, two hearings were conducted, during which, both private respondent and petitioner appeared. During the hearing dated October 27, 1998, both parties agreed to submit the case for resolution after petitioner submitted her counter-affidavit and the affidavits of her witnesses. In fact, when petitioner filed her Motion to Re-open the case with the BI, she did not question the lack of cross-examination during the investigation proceedings. She merely based her motion on the order of the Office of the Ombudsman finding the charge against her as "not office related." In the same pleading, she admitted that "[a]s early as October 27, 1998, the instant administrative action has been submitted for resolution after the contending parties have submitted their respective evidence" and that her move for the re-opening of the administrative case was merely "to allow her to adduce further evidence mainly based on the findings of the Office of the Ombudsman." Again, in her Motion for Reconsideration and/or New Trial of Commissioner Rodriguez's order of dismissal, she merely reiterated her arguments in her Motion to Re-open. She never complained that she was deprived of her right to cross-examination during the investigation of Special Prosecutor dela Cruz. The right to cross-examination being a personal right, petitioner must be deemed to have waived this right by agreeing to submit the case for resolution and not questioning the lack of it in the proceedings before the BI.

More importantly, it is well-settled that the essence of due process in administrative proceedings is an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of.[47] This was clearly satisfied in the case at bar. Records show that petitioner not only gave her sworn written explanation of the charges against her during the initial stage of the investigation, she also submitted: a) a sworn counter-affidavit refuting the charges against her, with all the attached annexes as evidence; b) a Motion to Re-open the case with the BI; c) a Motion for Reconsideration and/or New Trial with the BI; d) an Appeal to the CSC; e) a Motion for Reconsideration with the CSC; f) an Appeal to the CA; g) a Motion for Reconsideration with the CA; and h) the instant petition for review.

Second, petitioner contends that Commissioner Rodriguez violated the principle that "the tribunal or body or any of its judges must act on its or his own independent consideration of the law and facts of the controversy and not simply accept the views of a subordinate in arriving at a decision" when his denial of her Motion to Re-open and his order finding her guilty of grave misconduct were based exclusively on the resolution of Special Prosecutor

dela Cruz.[48]

This argument is likewise unavailing.

There is nothing essentially wrong in the head of a bureau adopting the recommendation of a subordinate. Section 47, Book V of the Administrative Code of 1987 gives the chief of bureau or office or department the power to delegate the task of investigating a case to a subordinate.[49] What due process demands is for the chief of the bureau to personally weigh and assess the evidence which the subordinate has gathered and not merely to rely on the recommendation of said investigating officer.[50]

In the case at bar, the order of Commissioner Rodriguez enjoys the disputable presumption that official duties have been regularly performed. That his decision quotes the resolution of Special Prosecutor dela Cruz does not necessarily imply that he did not personally examine the affidavits and evidence presented by the parties. Petitioner's bare assertion that Commissioner Rodriguez did not personally examine the evidence, without more, is not sufficient to overcome this presumption.

Third, petitioner contends that the CSC did not have basis in finding: a) that the affidavits of "Peng Villas (Deceased), Julie Buenaflor, Amy Cosino, Virginia Lubriano, Manuelito Lao and Jaime Santos Flores x x x all speak of the modus operandi of Vertudez at the BI" as these affidavits were not submitted to the CSC; and b) that petitioner "solicited money from BI clients" inasmuch as private respondent never alleged that she was a BI client. Moreover, the CSC's finding that private respondent "testified that respondent assured her of a visa, a passport and a job in Japan for a fee of P80,000.00 and that Vertudez, after getting paid, failed to fulfill her promise" is not supported by the complaint-affidavit of private respondent which merely stated that petitioner "volunteered to work-out and facilitate the processing of [private respondent's] passport and visa" and that petitioner "has a brother in Japan who could also help [private respondent] find a job." [51] Petitioner also assails the failure of the BI and CSC to consider the handwritten joint sworn statement of media practitioners Cloma and Romero and the joint affidavit of the housemaids of petitioner, Compo and Reyes.[52]

Again, these arguments fail to impress.

It is settled that only questions of law are entertained in petitions for review on certiorari under Rule 45 of the Rules of Court.[53] It is not the function of this Court, in a petition under Rule 45, to scrutinize, weigh and analyze evidence all over again.[54] Well-settled is the rule that the findings of fact of quasi-judicial agencies, like the BI and the CSC, are accorded not only respect but even finality if such findings are supported by substantial evidence.[55] Substantial evidence is such amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion, even if other equally reasonable minds might conceivably opine otherwise.[56]

In the case at bar, we note that contrary to petitioner's stance, the affidavits of Lao and Cosino do appear in the records of the CSC.[57] In any case, the affidavits of Villas, Cosino, Lubriano, Lao and Flores are of little relevance to the case at bar. If any, they are merely corroborating evidence. Note that it was only in the CSC's resolution on petitioner's Motion for Reconsideration that said affidavits were mentioned. These affidavits were not used as basis for the decision rendered by the BI, the main decision of the CSC denying the appeal of petitioner and the decision of the CA. We find the unanimous finding of guilt of the BI, the CSC and the CA amply supported by the following evidence on record: a) the complaint-affidavit of private respondent; b) the affidavit of Jessilyn Gutierrez; c) copies of the passport and application for a visa of petitioner's son; d) copies of SB Check Nos. 0014797 and 0014798; and e) letter of private respondent's counsel to petitioner demanding from petitioner the refund of the P79,000.00 that private respondent paid to petitioner.

As to the other contentions, we note that in addition to the self-serving quotations of petitioner from the complaint-affidavit of private respondent, said complaint-affidavit categorically alleged that petitioner told private respondent that the latter would "be receiving a salary of one lapad per day as a factory worker and that should [she] accept [petitioner's] offer, all that [would] be required of [her was] to give [petitioner] the amount of P80,000.00." Private respondent also categorically alleged that she was charging petitioner for her "failure to make good her promise to deploy [her] after receiving the amount of P79,000.00 in consideration of a job placement in Japan." Thus, contrary to petitioner's stance, the assailed findings of the CSC are supported by private respondent's complaint-affidavit.

Moreover, it is well-settled that it is not for the appellate court to substitute its own judgment for that of the administrative agency on the sufficiency of the evidence and the credibility of the witnesses. Administrative decisions on matters within their jurisdiction are entitled to respect and can only be set aside on proof of grave abuse of discretion, fraud or error of law. None of these vices has been shown in this case.[58]

We shall now proceed to the other issue: whether petitioner is guilty of grave misconduct warranting her removal from government service.

Citing *Sarigumba v. Pasok*,[59] petitioner contends that "[m]isconduct, warranting removal from office of a public officer, must have a direct relation to and connected with the performance of official duties, amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office." Since the BI is a government agency principally responsible for the administration and enforcement of immigration, citizenship and alien admission and registration laws, "by no stretch of imagination" can there be a direct relation between the function of a fingerprint examiner and the alleged promise to facilitate private respondent's employment abroad.[60] Petitioner also capitalizes on the allegation of private respondent in her complaint-affidavit that she and petitioner "became friends" to contend that the acts being imputed against her are personal and not office-related.[61]

These arguments lack merit.

The allegations in private respondent's complaint-affidavit indicate that petitioner used her position as a BI employee to assure private respondent that she could facilitate petitioner's deployment to Japan. Private respondent alleged that "during one of those times that [she] dropped by [petitioner's] office, [petitioner] intimated to [her] that a group of Immigration officers [were] scheduled to leave for Japan for training and that [petitioner] was the one who received a call from a Japanese Consul." Petitioner "asked [private respondent] if [she was] interested in going to Japan because [petitioner] will find a way to accommodate [her]."

Even petitioner's own admissions show that her position as an employee of the BI may be utilized in connection with illegal recruitment. In her memorandum to Commissioner Rodriguez, as reiterated in her counter-affidavit, petitioner alleged that private respondent was engaged in illegal recruitment and "was using [petitioner's] name in her dealings with some immigration officials and employees, presumably to expedite the processing of the documents belonging to her clients." Petitioner likewise claimed that she "declined [private respondent's] proposal that [she] 'escort' some of [private respondent's] clients who would be leaving for foreign countries but with falsified travel documents." Private respondent even told her that the "proposed scheme could easily be done because being an employee of this Bureau, [petitioner has] several connections not only at the Ninoy Aquino International Airport (NAIA) but also in Mactan International Airport."

That her position is designated as "fingerprint examiner" is not determinative of the issue of whether the charge against her is work-related. The allegations in the complaint against petitioner and her own admissions show that her duties go beyond her job title and that the charge against her is connected with her position as an employee of

the BI.

Finally, petitioner contends that "a promise to find a way to accommodate private respondent and a representation that petitioner has a brother who could help private respondent find a job are not misconduct warranting the dismissal of petitioner from office" but, "[a]t most," only "entitle[s] private respondent to civil indemnity." Petitioner contends that the CA's finding that petitioner merely made a "promise to facilitate" private respondent's employment abroad, as distinguished from the CSC's finding that petitioner committed "shameful illegal recruitment activities," practically absolved petitioner from the charge of grave misconduct.

This argument deserves scant consideration.

Misconduct has been defined as an intentional wrongdoing or deliberate violation of a rule of law or standard of behavior, especially by a government official.[62] As distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule, must be manifest in a charge of grave misconduct.[63] Corruption, as an element of grave misconduct, consists in the act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to duty and the rights of others.[64] An act need not be tantamount to a crime for it to be considered as grave misconduct as in fact, crimes involving moral turpitude are treated as a separate ground for dismissal under the Administrative Code.[65]

In the case at bar, petitioner cannot downplay the charges against her. Whether the charges against petitioner satisfy the elements of illegal recruitment to make her criminally liable for such crime is not the issue at bar. At the very least, petitioner was found to have taken advantage of her position as an employee of the BI to falsely promise, for pecuniary gain, the facilitation of private respondent's travel to Japan, including the processing of her passport, visa and other travel documents. Worse, she was found to have refused to reimburse the amounts paid to her by private respondent even when the promised passport, visa, and travel documents did not materialize. Undoubtedly, these acts involve "corruption, clear intent to violate the law or flagrant disregard of established rule." Under Section 23(c), Rule XIV the Omnibus Civil Service Rules and Regulations, these acts constitute a grave offense for which petitioner must suffer the penalty of dismissal.

IN VIEW WHEREOF, the petition is DENIED. The Court of Appeals Decision dated February 12, 2002 and Resolution dated April 16, 2002 in CA-G.R. SP No. 58766 are AFFIRMED.

SO ORDERED.

Austria-Martinez, Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] Also spelled as "Vertudez" in some parts of the records.

[2] Dated February 12, 2002; Rollo, pp. 37-45.

[3] Dated April 16, 2002; Id. at 46-47.

[4] Id. at 48-49.

[5] Dated July 31, 1998; CSC Records, p. 26.

[6] Rollo, pp. 50-54.

[7] Dated August 5, 1998; Id. at 55.

[8] CSC Records, p. 39.

- [9] Id. at 41-43.
- [10] Id. at 45-47.
- [11] Rollo, pp. 56-60.
- [12] Id. at 61-64.
- [13] Id. at 119-120.
- [14] CSC Records, p. 256.
- [15] Id. at 323.
- [16] Annex "J"; Rollo, pp. 67-74.
- [17] Id. at 75.
- [18] Id. at 121-124.
- [19] Id. at 76.
- [20] Id. at 78-79.
- [21] Id. at 81.
- [22] CSC Records, p. 712.
- [23] Id. at 150-151.
- [24] Rollo, pp. 82-83.
- [25] Id. at 84-85.
- [26] Memorandum dated January 12, 1999; Id. at 90.
- [27] Id. at 93.
- [28] Id. at 92-93.
- [29] Id. at 94-103.
- [30] Order dated February 8, 1999; Id. at 107.
- [31] CSC Records, p. 94.
- [32] Id. at 464-501.
- [33] Resolution No. 992569; Rollo, pp. 111-113.
- [34] CSC Records, pp. 6-14.
- [35] Resolution No. 000993; Rollo, p. 117.
- [36] CA Rollo, p. 41.
- [37] Rollo, p. 43.
- [38] Id. at 45.
- [39] Id. at 44-45.

[40] CA Rollo, pp. 265-270.

[41] Resolution dated April 16, 2002; Supra note 3.

[42] Memorandum; Rollo, pp. 209-210.

[43] 69 Phil. 635 (1940).

[44] 133 SCRA 376 (1984).

[45] Memorandum for the Petitioner; Rollo, pp. 224-225.

[46] *Fulgado v. CA*, 182 SCRA 81, 87 (1990), citing *Savory Luncheonette v. Lakas ng Manggagawa*, 62 SCRA 253, 263-267 (1975).

[47] *Velasquez v. Hernandez*, 437 SCRA 357, 368 (2004), citing *Adiong v. CA*, 371 SCRA 373 (2001) and *Vda. de Dela Cruz v. Abille*, 352 SCRA 691 (2001).

[48] Memorandum for the Petitioner; Rollo, p. 223.

[49] Said provision states that "[a]n investigation may be entrusted to a regional director or similar officials who shall make the necessary report and recommendation to the chief of bureau or office or department."

[50] *Mollaneda v. Umacob*, 358 SCRA 537, 548 (2001).

[51] Memorandum for the Petitioner; Rollo, pp. 221-223.

[52] *Id.* at 225.

[53] See Section 1, Rule 45 of the Rules of Court.

[54] *Villalon v. CA*, 319 SCRA 530, 536 (1999), citing *Estonina v. Court of Appeals*, 266 SCRA 627, 635 (1997); *Atlantic Gulf and Pacific Company of Manila, Inc. v. Court of Appeals*, 247 SCRA 606, 612 (1995); *De los Santos v. Reyes*, 205 SCRA 437, 445 (1992); *Philippine National Bank v. Intermediate Appellate Court*, 183 SCRA 133, 139 (1990).

[55] *Rosario v. Victory Ricemill*, 397 SCRA 760, 766 (2003), citing *Felix v. Enertech Systems Industries, Inc.*, 355 SCRA 680 (2001).

[56] *Bagong Bayan Corporation v. NLRC*, 178 SCRA 107 (1989), citing *Lansang v. Garcia*, 42 SCRA 448 (1971).

[57] CSC Records, pp. 41-44.

[58] *Bernardo v. CA*, 429 SCRA 284, 299-300 (2004), citing *Dadubo v. CSC*, 223 SCRA 747 (1993).

[59] 155 SCRA 646 (1987).

[60] Rollo, p. 227.

[61] *Id.* at 222.

[62] *CSC v. Belagan*, 440 SCRA 578, 599 (2004), citing *Maguad v. De Guzman*, 305 SCRA 469 (1999) and *Lacson v. Roque*, 92 Phil. 456 (1953).

[63] *Id.*, citing *Civil Service Commission v. Lucas*, 361 Phil. 486 (1999).

[64] Id., citing Black's Law Dictionary, p. 345.

[65] See Section 46(b)(10), Book V.

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