

FRANCISCO C. ROSALES, JR., PETITIONER, VS. MIGUEL H. MIJARES, RESPONDENT.

G.R. No. 154095. November 17, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 55904 affirming Resolution No. 991208[2] of the Civil Service Commission (CSC) granting the appeal of the respondent herein from the Order dated September 24, 1998 dismissing the respondent as Municipal Engineer of Catarman, Northern Samar; and Resolution No. 992130 denying the motion for reconsideration thereof.

As culled by the appellate court from the records, the antecedents are as follows:

Being the duly-elected mayor of Catarman, Northern Samar, during the 1998 local elections, Francisco C. Rosales, Jr. (or “petitioner”) assumed office on July 1, 1999. Shortly thereafter, petitioner summoned the department heads for a conference, among whom was the municipal engineer, Miguel H. Mijares (or “respondent”).

During the meeting, petitioner told respondent to resign under pain of abolition of his position. Not wishing to antagonize the mayor, respondent informed him a week later that he was “open” to the possibility of being transferred or detailed at the Provincial Engineering Office. Then and there, petitioner instructed respondent to prepare his papers.

On August 3, 1998, petitioner indorsed respondent to the provincial governor of Northern Samar for consideration for the position of Assistant Provincial Engineer.

On August 12, 1998, petitioner wrote to respondent stating:

Your request to transfer to the Provincial Engineering Office, Catarman, Northern Samar, is granted for a period of thirty (30) days from receipt hereof, subject to the condition imposed by Civil Service Law, rules and regulations.

Meanwhile, respondent continued reporting for work at the Municipal Engineer’s Office. However, the provincial governor did not act on petitioner’s endorsement.

On September 24, 1998, petitioner again wrote to respondent, this time informing him of his separation, viz:

The 30-day period given to you to transfer to the Provincial Engineering Office has now elapsed and, in as much as you did not seek an extension of your permit to transfer, you are considered resigned from this government unit as of September 13, 1996, pursuant to MC No. 38, S. 1993 of the Civil Service Commission.

In a letter dated October 2, 1998, respondent requested petitioner to withdraw the above-quoted separation letter. He pointed out that since the request for transfer to the Provincial Engineer’s Office was not acted upon, the same never became effective and, therefore, he did not cease to be an employee of the municipal government.

In his reply letter dated October 15, 1998, petitioner explained that respondent was not terminated and that his

separation from the service was by operation of law, i.e., Civil Service Commission (or “CSC”) Memorandum Circular (or “MC”) No. 38, S. 1993. In the same communication, petitioner offered to reinstate respondent.

On November 12, 1998, respondent filed a complaint for illegal termination against petitioner before the CSC. Treating the complaint as an appeal, the Director of CSC Regional Office No. 8 instructed Victoria E. Valeriano (or “Ms. Valeriano”), Head Civil Service Field Officer in Catarman, to conduct a fact-finding investigation on respondent’s case. Pursuant to the directive, Ms. Valeriano asked petitioner to submit the original of respondent’s request for transfer. In a letter dated January 11, 1998, petitioner informed Ms. Valeriano that respondent’s request was merely verbal.

In an order dated April 16, 1999, the CSC Office of Legal Affairs required petitioner to comment on the appeal. Complying with the directive, petitioner explained that respondent’s separation was valid and legal under CSC MC No. 38, S. 1993, since the latter’s permit to transfer to the Provincial Engineer’s Office expired without his transfer being effected. In support of his defense, petitioner appended his documentary evidence to his comment, including the legal opinions of the CSC Regional Office and the Provincial Prosecutor upholding the validity of his action.

On June 17, 1999, the CSC issued a resolution, the decretal portion of which resolution (sic) reads:

WHEREFORE, the appeal of Miguel H. Mijares is hereby granted. Accordingly, Mayor Francisco C. Rosales, Jr. is directed to immediately reinstate Mijares to his former position of Municipal Engineer and to cause the payment of all his salaries and other benefits from the date of his unlawful separation from the service up to his actual reinstatement.[3]

The CSC held that the respondent did not freely and voluntarily seek permission from the petitioner to transfer to another office and that based on the record, the supposed transfer of the respondent to the Office of the Provincial Engineer was a shrewd machination or clever ploy resorted to by the petitioner to oust the respondent from his position as Municipal Engineer; hence, such transfer was illegal. The CSC cited the rulings of this Court in *Sta. Maria v. Lopez*[4] and *Divinagracia, Jr. v. Sto. Tomas*.^[5] The CSC also ruled that a request for transfer, under CSC Memorandum Circular No. 98-38, must be in writing; and that even assuming that a verbal request for transfer may be made, the petitioner failed to adduce any proof that the respondent made such verbal request, as well as the date of the effectivity of the transfer. The CSC cited its ruling in CSC Resolution No. 99-1616 dated July 20, 1999. The CSC declared that the letter of the petitioner to the respondent dated August 12, 1998 was but a detail of the respondent to the Office of the Provincial Engineer.

The petitioner’s motion for a reconsideration of the resolution was denied by the CSC per its Resolution No. 992130.

The petitioner, thereafter, filed a petition for review with the CA assailing the resolutions of the CSC. On December 20, 2001, the CA rendered a decision dismissing the petition and affirming the resolutions of the CSC. The appellate court affirmed in toto not only the finding of the CSC, but also its rulings on the issues raised by the petitioner. The CA also held that:

Well-settled is the rule that in reviewing administrative decisions, the findings of fact made therein must be respected as long as they are supported by substantial evidence (*Lo vs. Court of Appeals*, 321 SCRA 190). We see no cogent reason to depart from said principle.

It is also noteworthy that the ground relied upon to justify respondent’s removal, i.e., expiration of his permit to transfer, is purely technical and, therefore, too flimsy to override the constitutional mandate upholding an employee’s right to security of tenure (Art. IX-B, Sec. 2, par. 3, 1987 Constitution). As held in *Divinagracia, Jr. vs. Sto. Tomas* (244 SCRA 595), “the guarantee of security of tenure is an important object of the civil

service system because it affords a faithful employee permanence of employment, at least for the period prescribed by law, and frees the employee from the fear of political and personal prejudicial reprisal.”[6]

The petitioner’s motion for reconsideration of the decision was denied by the appellate court.

The petitioner filed his petition for review on certiorari with this Court, contending that the CA erred as follows:

- IN UPHOLDING THE FINDINGS OF THE CIVIL SERVICE COMMISSION WHICH IMPROPERLY INTERPRETED THE PROVISIONS OF PART II, ITEM 5(a)[4] OF CSC MC NO. 93-38 AND RULING THAT PETITIONER ILLEGALLY TERMINATED RESPONDENT.
- IN HOLDING THAT PETITIONER WAS AFFORDED DUE PROCESS.
- IN DECIDING THE CASE IN FAVOR OF RESPONDENT DESPITE THE EXISTENCE OF OVERWHELMING EVIDENCE TO THE CONTRARY.
- IN ORDERING PETITIONER TO PAY THE COSTS.[7]

The petition has no merit.

The petitioner faults the CSC and the appellate court for ruling in favor of the respondent, contending that, as gleaned from the respondent’s October 2, 1998 Letter, the latter requested for a transfer and was not coerced nor forced to do so. The petitioner asserts that no less than the respondent declared therein, as well as on the other documents on record, that he requested to be transferred to the Office of the Provincial Engineer, and that he secured photo copies of his service records and other documents from the municipality in support of his written request for transfer, and himself submitted such request to the Office of the Governor. The petitioner asserts that the October 28, 1998 Opinion of CSC Regional Office No. 8 and of the Provincial Prosecutor dated November 12, 1998 frontally belie the findings of the CSC and the appellate court. According to the petitioner, he should not be faulted by the CSC for applying the letter and spirit of CSC Memorandum Circular No. 93-38.

The petitioner further alleges that the respondent did not even heave a whimper of protest despite the receipt of the Letter dated September 24, 1998 informing him of his separation. The respondent is thus estopped, the petitioner insists, from assailing the termination of his service as Municipal Engineer of Catarman. The petitioner concedes that factual findings of quasi-judicial bodies, such as the CSC, are conclusive if based on substantial evidence. He, however, contends that, in this case, the CSC ignored and misunderstood the evidence on record, thereby committing a grave injustice.

We do not agree with the petitioner. CSC Memorandum Circular No. 93-38 reads:

Transfer – is a movement from one position without break in service involving the issuance of an appointment.

The transfer may be from one agency to another or from one organizational unit to another in the same agency.

An employee who seeks transfer to another office shall first secure permission from the head of the department or agency where he is employed stating the effective date of the transfer. If the request to transfer of an employee is not granted by the head of the agency where he is employed, it shall be deemed approved after the lapse of 30 days from the date of notice to the agency head.

If, for whatever reason, the employee fails to transfer on the specified date, he shall be considered resigned and his reemployment in his former office shall be at the discretion of his head.[8]

The CSC interpreted its Memorandum as requiring a written and not merely a verbal request for an employee to transfer to another office. Moreover, such request must be express and unequivocal, and cannot be merely implied or ambiguous. The request by an employee to transfer to another office must be such that he intended to surrender

his permanent office. Also, a transfer connotes an absolute relinquishment of an office in exchange for another office. Such request must be voluntary on the part of the officer concerned and not vitiated by force, coercion, or intimidation or even deceit. Indeed, in *Sta. Maria v. Lopez*,^[9] we held that:

A transfer that results in promotion or demotion, advancement or reduction or a transfer that aims to “lure the employee away from his permanent position,” cannot be done without the employee’s consent. For that would constitute removal from office. Indeed, no permanent transfer can take place unless the officer or employee is first removed from the position held, and then appointed to another position.^[10]

The Court also held that unconsented transfer is anathema to security of tenure.^[11] A transfer that aims by indirect method to terminate services or to force resignation constitutes removal.^[12] An employee cannot be transferred unless for causes provided for by law and after due process.^[13] Any attempt to breach the protective wall built around the employee’s right to security of tenure should be slain on sight. The right of employees to security of tenure should never be sacrificed merely at the whims and pleasure of some unscrupulous and heartless politicians. As we held in *Nemenzo v. Sabillano*:^[14]

There are altogether too many cases of this nature, wherein local elective officials, upon assumption of office, wield their new-found power indiscriminately by replacing employees with their own proteges, regardless of the laws and regulations governing the civil service. Victory at the polls should not be taken as authority for the commission of such illegal acts.^[15]

In this case, the petitioner, who perceived that the respondent was a well-known supporter of the political party opposed to his candidacy, coerced the respondent into resigning and even threatened to have his position as Municipal Engineer abolished. This was chronicled by the respondent in his letter to the petitioner dated October 2, 1998:

Hon. Francisco C. Rosales, Jr.
Municipal Mayor
Catarman, Northern Samar

Dear Mayor Rosales:

In answer to your letter of 24 September 1998 terminating my services as Municipal Engineer of Catarman, effective September 13, 1998, allegedly due to my failure to seek an extension of my permit to transfer to [the] Provincial Engineering Office, please be reminded of the following facts and events.

A few days after you assumed office as new Mayor of Catarman, or on July 2, 1998, you called me to your office and told me to resign from my position as Municipal Engineer because you did not like me to continue serving under your administration, and if I did not resign, you would abolish my position. You give (sic) me one week to think about your proposal. As a permanent employee, I realized that your proposal was political harassment because I did not support you during the last elections.^[16]

The petitioner denied the allegation in his letter to the respondent dated October 15, 1998 that the CSC correctly disbelieved the petitioner’s bare denial. Before the petitioner was elected Mayor of Catarman and assumed office, there was no reason for the respondent to abandon his position as Municipal Engineer and seek a transfer to another office. The respondent’s ordeal commenced after the petitioner assumed office as Municipal Mayor and coerced the respondent into resigning or transferring to another position.

The respondent, in his letter to the petitioner dated October 2, 1998, admitted that during their second meeting on August 10, 1998, he suggested that he was “open” to a transfer to the Provincial Engineering Office or, at least to be detailed thereat, in lieu of resignation, to which the petitioner agreed; and that upon the petitioner’s orders, the respondent accomplished the requisite Form 212, secured copies of his service records, and submitted the same to

the Office of the Provincial Governor for a possible appointment as Assistant Provincial Engineer; and that the petitioner endorsed and recommended the same to the Provincial Governor. However, taking into consideration the entirety of the contents of the letter, and the facts and circumstances which impelled the respondent to write the same, it cannot thereby be concluded that the respondent had voluntarily and unequivocally decided to transfer to the Office of the Provincial Engineer. In light of the demands and threats of the petitioner, the respondent had only three options: to resign, to agree to transfer to another office, or to remain as Municipal Engineer with the threat of the petitioner to have his position abolished hanging over his head.

Admittedly, rather than resign as demanded by the petitioner, the respondent opted to make himself available for appointment by the Provincial Governor as Assistant Provincial Engineer. However, the Form 212 submitted by the respondent to the Provincial Governor is not the written request envisaged in CSC Memorandum Circular No. 93-38 for the following reasons: (a) the respondent continued reporting and performing his duties as Municipal Engineer of Catarman and receiving his salary as such; and (b) the respondent did not send any written request to the petitioner for transfer to the Office of the Provincial Engineer.

Evidently, the respondent intended to request for permission to transfer to the position of Assistant Provincial Engineer only after the Governor had agreed thereto. The respondent did not want to risk unemployment by making a written request for transfer without first being assured of his appointment by the Provincial Governor to the position of Assistant Provincial Engineer; hence, he opted to wait for the Provincial Governor's approval for his appointment before submitting a written request for transfer to the petitioner. As it were, the Governor failed to act on the respondent's application.

In his obsession to do away with the respondent even before the Governor could act on his papers, the petitioner wrote the respondent on August 12, 1998, informing the latter that his request for transfer had been granted, knowing fully well that the respondent had not yet made such a written request for transfer. The letter of the petitioner reads:

August 12, 1998

Miguel H. Mijares
Municipal Engineer
Catarman, Northern Samar

Sir:

Your request to transfer to the Provincial Engineering Office, Catarman, Northern Samar, is granted for a period of thirty (30) days from receipt hereof, subject to the condition imposed by Civil Service Law, Rules and Regulations.

Very truly yours,

Sgd.

FRANCISCO C. ROSALES, JR.

Municipal Mayor[17]

We agree with the ruling of the CSC that the letter of the petitioner to the respondent is merely a detail of the latter for a period of thirty days to the Office of the Provincial Engineer:

As already stated in the Resolution now being sought to be reconsidered, the purported "permit to transfer" dated August 12, 1998 issued by movant unmistakably refers to a personnel action other than a transfer. The said "permit to transfer" states that "(y)our request to transfer to the Provincial Engineering Office, Catarman, Northern Samar is granted for a period of thirty (30) days from receipt hereof ..." This statement does not

contemplate a transfer as defined under the Civil Service Law and Rules. Rather, such a personnel action is in reality a detail because Mijares is to be temporarily moved for a period of 30 days from his employer, the Municipal Government of Catarman, to the Provincial Engineering Office.[18]

The deplorable machination resorted to by the petitioner to remove the respondent from his position became more evident when, on September 24, 1998, he wrote the respondent, thus:

September 24, 1998

Engr. Miguel H. Mijares
Municipal Engineer
Catarman, Northern Samar

Engr. Mijares:

The 30-day period given to you to transfer to the Provincial Engineering Office has now elapsed and in as much as you did not seek an extension of your permit to transfer, you are considered resigned from this government unit as of September 13, 1998, pursuant to MC No. 38 S 1993 of the Civil Service Commission.

FRANCISCO C. ROSALES, JR.
Municipal Mayor[19]

By his September 24, 1998 letter to the respondent, the petitioner made it appear that he had granted the respondent permission to transfer within thirty days, and that the respondent failed to effect his transfer. This was done by the petitioner despite the absence of any letter from the respondent requesting for such transfer. By his August 12, 1998 letter, the petitioner merely detailed the respondent to the Office of the Provincial Engineer. It must be stressed that the only legal effect of a detail of an employee, upon the lapse of the period of such detail, is for that employee to return to his permanent station. Thus, the respondent retained his position as Municipal Engineer despite his detail to the Office of the Provincial Engineer.

The petitioner capped his chicanery by considering the respondent resigned as of September 13, 1998, or after the lapse of the period for detail of the respondent to the Office of the Provincial Engineer.

We agree with the ruling of the appellate court, which affirmed that of the CSC, thus:

... [T]o sustain the argument advanced by [petitioner] would be setting a dangerous precedent. This will lead to a situation where any head of an agency or local government unit who, for whatever reason, wants to terminate a subordinate from his employment would simply inform the latter that his verbal request to transfer was accepted and, thereafter, exclude his name from the payroll, as what happened in the present case, although the employee never made any such request. This was never the intention of the framers of said rule as it would make a mockery of the employee's right to security of tenure.

Besides, the alleged request for transfer was not freely and voluntarily made by respondent, not to mention that petitioner's approval of the request is ambiguous. Thus, the CSC found:

... the Commission has noted that the purported grant by Mayor Rosales of permission to Mijares is utterly ambiguous. In his letter dated August 12, 1998, Mayor Rosales stated that '(y)our request to transfer to the Provincial Engineering Office, Catarman, Northern Samar, is granted for a period of thirty (30) days from receipt hereof, ...' This simply means that the supposed transfer of Mijares to the Provincial Office was granted by his stay or service thereat is good only for a period of 30 days.

The foregoing facts and circumstances duly supported by the evidence on record convinces the Commission that Mijares did not freely and voluntarily seek from Mayor Rosales permission to transfer to another office. On the contrary, it is apparent that the supposed transfer was a shrewd machination or clever ply (sic) resorted

to oust Mijares from his present position. This, the Commission will never tolerate much less countenance, as this would infringe the right to security of tenure of Mijares.

Well-settled is the rule that in reviewing administrative decisions, the findings of fact made therein must be respected as long as they are supported by substantial evidence (*Lo vs. Court of Appeals*, 321 SCRA 190). We see no cogent reason to depart from said principle.

It is also noteworthy that the ground relied upon to justify respondent's removal, i.e., expiration of his permit to transfer, is purely technical and, therefore, too flimsy to override the constitutional mandate upholding an employee's right to security of tenure (Art. IX-B, Sec. 2, par. 3, 1987 Constitution). As held in *Divinagracia, Jr. vs. Sto. Tomas* (244 SCRA 595), "the guarantee of security of tenure is an important object of the civil service system because it affords a faithful employee permanence of employment, at least for the period prescribed by law, and frees the employee from the fear of political and personal prejudicial reprisal." [20]

Likewise, barren of merit is the petitioner's contention that he was deprived of due process because the CSC failed to consider the effect of the opinion of the Provincial Prosecutor and the Regional Director of the CSC holding that the petitioner had complied with CSC Memorandum Circular No. 93-38, as well as the other documents appended to his comment. The CA correctly ruled that:

Finally, there is no merit in petitioner's insistence that he was denied due process because the CSC did not consider the documentary evidence attached to his comment. The CSC, in its resolution dated September 21, 1999, stated that "the Commission received [petitioner's comment] including all its annexes on May 18, 1999" and "(a)fter a careful evaluation of the same, the Commission found not a shred of evidence to show that [respondent], indeed, requested for his transfer." (Italics supplied)

Settled is the rule that the essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of. What the law prohibits is absolute absence of the opportunity to be heard; hence, a party cannot feign denial of due process where he had been afforded the opportunity to present his side (*Audion Electric Co., Inc. vs. NLRC*, 308 SCRA 340). [21]

The petitioner cannot find solace in the October 28, 1998 Opinion of Judith Chicano, Regional Director of Region 8 of the CSC, and the November 12, 1998 letter-opinion of the Provincial Prosecutor stating that the petitioner correctly applied CSC Memorandum Circular No. 93-38. This is because: (a) the petitioner falsely represented to the Regional Director and Provincial Prosecutor that the respondent had requested for a transfer to the Office of the Provincial Engineer when, in truth and in fact, the respondent had not done so; (b) the Regional Director and the Provincial Prosecutor were not even furnished with copies of the October 2, 1998 Letter of the respondent to the petitioner; and (c) the opinion of the CSC Regional Director and Provincial Prosecutor were not conclusive on the CSC, as the latter could still reverse the said opinion on appeal.

The records negate the contention of the petitioner that the respondent kept a stoic silence even after receiving the September 24, 1998 letter informing him that he was deemed resigned as of September 13, 1998. The fact of the matter is that the respondent appealed the letter to the Regional Director of the CSC, Region 8, which the respondent took cognizance of and acted upon via her endorsement of the letter to Ma. Victoria E. Valeriano, Head, Civil Service Fiscal Officer for a fact-finding investigation. [22]

On the contention of the petitioner that the appeal of the respondent to the CSC was made beyond the period therefor under Section 49(a) of the CSC Revised Rules of Procedure, the CSC correctly ruled that:

Movant claims that Mijares' appeal was filed way beyond the reglementary period for filing appeals. He, thus, contends that the Commission should not have given due course to said appeal.

The Commission need not delve much on the dates when Mijares was separated from the service and when he assailed his separation. Suffice it to state that the Commission found his appeal meritorious. This being the case, procedural rules need not be strictly observed. This principle was explained by in the case of Mauna vs. CSC, 232 SCRA 388, where the Supreme Court ruled, to wit:

“Assuming for the sake of argument that the petitioner’s appeal was filed out of time, it is within the power of this Court to temper rigid rules in favor of substantial justice. While it is desirable that the Rules of Court be faithfully and even meticulously observed, courts should not be so strict about procedural lapses that do not really impair the proper administration of justice. If the rules are intended to ensure the orderly conduct of litigation, it is because of the higher objective they seek which is the protection of substantive rights of the parties. As held by the Court in a number of cases: ‘... Because there is no vested right in technicalities, in meritorious cases, a liberal, not literal, interpretation of the rules becomes imperative and technicalities should not be resorted to in derogation of the intent and purpose of the rules which is the proper and just determination of litigation. Litigations, should as much as possible, be decided on their merits and not on technicality. Dismissal of appeals purely on technical grounds is frowned upon, and the rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice, and thereby defeat their very aims. As has been the constant rulings of this Court, every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause, free from the constraints of technicalities ...’”

Besides, Mijares assailed his separation from the service and asserted his right to his office within one (1) year from his separation. This being so, the Commission correctly gave due course to his appeal (Isberto vs. Raquiza, 67 SCRA 116). And what is ironic is that it is only now that movant raised the issue on timeliness of filing an appeal. Never did he assail this matter in his comment.[23]

The respondent never relented in his resistance to the petitioner’s sustained effort to oust him from his position. The records show that after receipt of the petitioner’s September 24, 1998 letter, the respondent, thereafter, requested for its withdrawal in a reply-letter dated October 2, 1998.[24] In his letter dated October 15, 1998, the petitioner informed the respondent that he was forwarding the latter’s personnel file to the CSC for its legal opinion on the matter.[25] The petitioner, through counsel, sought the opinion of the CSC Regional Director on October 20, 1998.[26] On October 28, 1998, the CSC Regional Director rendered her opinion in favor of the petitioner. The respondent then wrote to the Regional Director on November 4, 1998, anent the September 24, 1998 letter of the petitioner. The Regional Director treated the said letter of the respondent as an “appeal.” In his comment on the appeal of the respondent, the petitioner did not contest the timeliness of the said “appeal” and opted to delve into and discuss the merits of the case.

It bears stressing that the case before the CSC involves the security of tenure of a public officer sacrosanctly protected by the Constitution. Public interest requires a resolution of the merits of the appeal instead of dismissing the same based on a strained and inordinate application of Section 49(a) of the CSC Revised Rules of Procedure.[27]

On the last issue, we find that there is no factual basis for directing the petitioner to pay the costs.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED for lack of merit. The decision of the appellate court is AFFIRMED. However, the award for costs is DELETED.

SO ORDERED.

Davide, Jr., C.J., Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Carpio-Morales, Azcuna, Chico-Nazario, and Garcia, JJ., concur.

Puno, J., on official leave.

Austria-Martinez, J., no part. concurred in CA decision.

Corona, and Tinga, JJ., on leave.

[1] Penned by Associate Justice Edgardo P. Cruz, with Associate Justices Ma. Alicia Austria-Martinez (now an Associate Justice of the Supreme Court) and Hilarion L. Aquino (retired), concurring.

[2] Penned by Chairman Corazon Alma G. De Leon.

[3]Rollo, pp. 86-88.

[4]31 SCRA 637 (1970).

[5] 244 SCRA 595 (1995).

[6]Rollo, p. 92.

[7] Id. at 17.

[8] Id. at 20.

[9]Supra.

[10]Id. at 651-652.

[11] Divinagracia, Jr. v. Sto. Tomas, supra.

[12] Sta. Maria v. Lopez, supra.

[13] De Guzman, Jr. v. COMELEC, 336 SCRA 191 (2000).

[14]25 SCRA 1 (1968), cited in Divinagracia, Jr. v. Sto. Tomas, supra.

[15] Id. at 606.

[16] Rollo, p. 98.

[17] Id. at 102.

[18]Id. at 83.

[19] Id. at 111.

[20] Id. at 91-92.

[21] Id. at 93.

[22] Id. at 124.

[23]Id. at 80-81.

[24]Id. at 112.

[25] Id. at 113.

[26] Id. at 116-117.

[27] SEC. 49. Complaint or Appeal to the Commission –

...

(a) A decision, ruling, or action of any department or agency, or Civil Service Regional/Field Office (CSRO/CSFO) may be appealed within fifteen (15) days from receipt of such decision, ruling, or order and in the following manner:

xxx

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