

FORMER MAYOR BRIGIDO R. SIMON, JR., FORMER CITY ADMINISTRATOR EDMUNDO P. KAIMO, AND FORMER SECRETARY TO THE MAYOR NESTOR P. BORROMEO, ALL OF QUEZON CITY, PETITIONERS, VS. FLORIDA...

G.R. NO. 156025. January 31, 2007

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-156025/>

AUSTRIA-MARTINEZ, J.

Before this Court are the separate petitions[1] for review assailing the Decision[2] of the Court of Appeals (CA) in CA-G.R. No. CV-49436, dated November 29, 2001 which affirmed the Regional Trial Court (RTC), Branch 100, of Quezon City; and the Resolution[3] dated November 13, 2002 of the CA which denied petitioners' motion for reconsideration.

The facts are as follows.

Florida R. Martinez (Martinez) started working at the Quezon City Health Department as a nurse in 1954. She rose from the ranks and became Nursing Program Supervisor IV or Chief Nurse of the Quezon City Health Department in 1983.[4] She finished her nursing degrees at the University of the Philippines-Philippine General Hospital (UP-PGH) and Arellano University; she obtained a Certificate in Public Health from UP and a masters' degree from the Philippine Women's University.[5] She was the President of the Philippine Nurses Association (PNA) and an officer and member of several organizations.[6] She also received several awards and was a participant of numerous seminars here and abroad.[7]

On November 3, 1986, Martinez was called by City Administrator Edmundo P. Kaimo (Kaimo) to his office, who gave her three choices: to resign, retire or be dismissed.[8] When she asked what the specific charges against her were, she was told to just wait for the letter of dismissal.[9] Martinez, through her lawyer-husband Pedro, sent a letter dated November 10, 1986 to Officer-in-Charge (OIC) of Quezon City Brigido R. Simon, Jr. (Simon), asking Simon to inform them of the specific charges against Martinez.[10]

On November 12, 1986, Martinez received a letter dated October 30, 1986, signed by Simon, Kaimo, and Nestor P. Borromeo (Borromeo), Secretary to the Mayor, separating her from the service, pursuant to Proclamation No. 3 and Executive Order No. 17 issued by then President Corazon C. Aquino, on the following grounds:

Item 2 & 5 - Existence of a probable cause for violation of the Anti-Graft and Corrupt Practices Act as determined by the Ministry Head concerned;

and/or - Any other analogous ground showing that the incumbent is unfit to remain in the service or her separation/replacement is in the interest of the service.[11]

Martinez filed a motion for reconsideration with the Review Committee[12] of the Ministry of Justice which issued a Resolution dated January 5, 1987, ordering Martinez's reinstatement.[13] The committee found that

Simon failed to substantiate Martinez's alleged violation of the Anti-Graft and Corrupt Practices Act; neither was there any analogous ground showing Martinez to be unfit to remain in service.[14]

Martinez was reinstated on January 26, 1987 and she officially reported back to work on January 29, 1987.[15] However, she was not allowed to receive her salary and allowances during the period she was separated from the service, i.e., from November 13, 1986 to January 29, 1987 following the First Indorsement of the City Attorney stating that pursuant to Sec. 9[16] of Exec. Order No. 17, she was considered as being on vacation leave without pay during the time she was out of the service.[17]

On March 23, 1987, Martinez filed a complaint for damages with the RTC of Quezon City against Simon, Borromeo, Kaimo, the Quezon City Government; Reynaldo M. Lupisan, Chief of Disease Intelligence and Control Division/Assistant City Health Officer[18]/OIC of the Health Department of Quezon City;[19] Cecilia Paulino, Medical Planning Officer; Gloria Chan, Chief of Maternal and Child Health Division; Arturo Loria, City Personnel Officer; and Rafaela Castro, Personnel Officer, alleging that the said defendants connived in causing her separation from the service.[20] Martinez prayed that defendants be ordered to pay, jointly and severally, the salary and benefits due her from November 12, 1986 to January 28, 1987,[21] and actual, moral and exemplary damages and attorney's fees, specifically invoking Article 21[22] of the Civil Code.[23]

Defendants contend that Martinez's notice of termination was served after a judicious assessment by the Review Committee of the Office of the Mayor and was unanimously voted upon by the members after finding that there exists a probable cause for violation of the Anti-Graft and Corrupt Practices Act and other analogous grounds showing that Martinez is unfit to remain in the service. They further claim that Martinez pleaded with Simon that she be given another chance to reform herself, which the mayor accepted, thus they no longer filed any comment on the motion for reconsideration before the Minister of Justice; and that under the Quezon City Charter, Republic Act (R.A.) No. 537, the Quezon City government shall not be liable for any damages arising from the negligence of any officer.[24]

Trial ensued and on June 15, 1994, the RTC rendered its Decision in favor of Martinez holding Simon, Borromeo, and Kaimo liable for damages for signing Martinez's termination letter, and Lupisan, for recommending Martinez's termination, without verifying the truth of the charges against Martinez; but dismissed the complaint against the Quezon City Government.[25] The fallo of said Decision reads:

WHEREFORE, in view of the foregoing, and thru preponderance of evidence, Judgment is hereby rendered in favor of plaintiffs and against the herein defendants OIC Brigido Simon, Jr., Nestor P. Borromeo, Edmundo P. Kaimo, and Reynaldo Lupisan, and they are hereby ordered jointly and solidarily liable to pay the herein plaintiffs

- (1) Two Hundred Thousand (P200,000.00) Pesos as moral damages;
- (2) Fifty Thousand (P50,000.00) Pesos as exemplary damages;
- (3) Thirty One Thousand Nine Hundred Forty (P31,940.00) Pesos as actual damages; and
- (4) Thirty Thousand (P30,000.00) Pesos as Attorney's Fees, and to pay the cost of suit.

SO ORDERED.[26]

Martinez and the defendants Simon, Borromeo, Kaimo and Lupisan went to the CA on appeal. Martinez questioned the dismissal of the complaint against the Quezon City Government and the other defendants, and for awarding her only P200,000.00 as moral damages, P50,000.00 as exemplary damages and P30,000.00 as attorney's fees.[27] Simon, Borromeo, Kaimo and Lupisan meanwhile claimed that the RTC erred when it ruled

that they have no authority to terminate Martinez; that the dismissal of Martinez was done haphazardly and politically motivated; and that Martinez has proven her cause of action entitling her to damages.[28]

On November 29, 2001, the CA rendered its Decision affirming the RTC Decision. The CA held that: Simon, Borromeo, Kaimo and Lupisan dismissed Martinez without cause and she was not afforded an opportunity to be heard before her dismissal; Proclamation No. 3 and Executive Order No. 17, upon which defendants based the dismissal of Martinez, are valid, and the same do not disregard Martinez's right to due process; defendants dismissed Martinez, a career service employee, merely upon the recommendation of Lupisan, Assistant City Health Officer; the Guidelines for the Review Committee set by the local government of Quezon City before dismissing its employees were also not followed as no investigation was conducted; the notice of separation served on Martinez is worded in general terms; the award of moral damages is warranted under Arts. 2217,[29] 2219 (10)[30], 27[31] of the Civil Code, since she is a career civil servant who rose from the ranks, she was a recipient of numerous awards, held prestigious positions in different organizations and enjoyed a good reputation with her lawyer husband and nine children who are all professionals; she felt sick and her blood pressure rose when she learned that there was a letter summarily separating her from the service; the termination also affected her bid for reelection as President of PNA; the award of exemplary damages is warranted under Art. 2229[32] of the Civil Code by way of example or correction for the public good; the award of P31,940.00 as actual damages was adequately substantiated during the trial, hence proper; the award of attorney's fees was justified as she was forced to litigate when she was illegally dismissed by defendants; and the Quezon City Government is not liable for the damages suffered by Martinez following Sec. 4,[33] R.A. No. 537.[34]

The CA denied petitioners' Motion for Reconsideration.[35] Hence, they filed separate petitions for review before this Court.

In his petition, Simon claims that:

THE COURT OF APPEALS ERRED WHEN IT RULED THAT PETITIONER SIMON IS PERSONALLY LIABLE FOR DAMAGES UNDER ARTICLE 27 OF THE NEW CIVIL CODE IN ISSUING THE TERMINATION LETTER TO THE RESPONDENT.[36]

Simon argues that: the complaint failed to allege, neither was it proven, that he acted in bad faith, with malice or was grossly negligent when he signed the termination letter of respondent which would make him personally civilly liable; it was also not shown that respondent first demanded from him that she be paid damages before filing the instant case in order for her to be entitled to exemplary damages; Article 27 of the New Civil Code which was cited by the CA refers to action for damages when the public official or employee neglects to perform his official duty without just cause; in this case, he performed his duty as Chief Executive of Quezon City empowered by law to hire and fire employees of the Quezon City government; he even gave Martinez a citation after she was reinstated indicating the absence of ill-will, bad faith, malice and gross negligence; he simply acted positively towards the recommendation of the Committee on Review of the Mayor's Office which was tasked to evaluate and recommend the employment and termination of personnel of the Quezon City government, and could not be faulted for the errors committed by the said committee; as there were many personnel who were recommended to be purged, it was impossible for him to personally evaluate all their acts and review the causes for their termination.[37]

In their petition, Kaimo and Borromeo claim that the CA:

I

x x x DECIDED A QUESTION OF LAW/SUBSTANCE CONTRARY TO APPLICABLE LAW AND JURISPRUDENCE WHEN IT AFFIRMED THE AWARD OF MORAL DAMAGES IN THE AMOUNT OF

P200,000.00

II

x x x DECIDED A QUESTION OF LAW/SUBSTANCE CONTRARY TO APPLICABLE LAW AND JURISPRUDENCE WHEN IT AFFIRMED THE AWARD OF EXEMPLARY DAMAGES IN THE AMOUNT OF P50,000.00

III

x x x GRAVELY ERRED AND/OR HAD ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION WHEN IT AFFIRMED THE AWARD OF ACTUAL DAMAGES IN THE AMOUNT OF P31,940.00[38]

Kaimo and Borromeo contend that: a claimant of moral damages must satisfactorily prove the existence of the factual basis of the said damage and its causal relation to defendants' acts; Art. 27 of the Civil Code does not apply in this case as petitioners did not refuse nor neglect to perform their official duties; there was no definite finding that petitioners acted with malice or bad faith in the termination of Martinez from the service; when petitioners terminated Martinez, they were of the honest belief that they had sufficiently complied with the requirements imposed under the Freedom Constitution and Executive Order No. 17; no one was appointed nor designated to the position vacated by Martinez; she was paid all salaries, allowances and benefits due her at the time she was out of the service which sum must be deducted from the amount of actual damages awarded; her termination was upon the strong recommendation of Lupisan, with whom Martinez had a long professional misunderstanding; no prior misunderstanding existed between them and Martinez; exemplary damages are not recoverable as a matter of right.[39]

Martinez in her Comment countered that the CA correctly affirmed the RTC's ruling awarding her damages as petitioners are guilty of bad faith when they conspired with one another in dismissing her without just cause and due process. She also no longer questioned the absence of liability of the Quezon City Government and prayed that the CA Decision be affirmed in toto.[40]

Simon filed a Reply stating that respondent did not comment on the material arguments of the petition thus the award of damages is erroneous and cannot be sustained, neither did respondent refute that he was authorized by the Freedom Constitution through Executive Order No. 17 to terminate her employment upon grounds cited in the said executive order.[41]

Kaimo and Borromeo in their Reply further argued that the failure of Martinez to rebut the alleged errors committed by the CA means that she impliedly admitted the correctness of their petition.[42]

Simon, Kaimo and Borromeo filed their respective Memoranda reiterating their earlier arguments.[43]

Martinez in her Memorandum argues that: the petitions raise factual issues which may not be raised in a petition for review on certiorari; the decision of the CA affirming the findings of the RTC rests on solid legal and factual grounds; Art. 27 of the Civil Code is broad and general enough to include all kinds of malfeasance, misfeasance and nonfeasance of public officers causing material and moral damage to another; the petitioners refused without justifiable cause to specify the grounds and causes of Martinez's dismissal, to afford her the minimum requirements of summary procedure embodied in the Civil Service Law which is the minimum requirement in enforcing Executive Order No. 17, and to afford her the right to confront the witnesses against her, which are all parts of the duties of government officials to uphold and defend the Constitution, to do justice to every man and to comply with the laws of the land.[44]

The Court finds the petitions with merit only as to the actual damages awarded by the lower courts.

Art. III (2) of the Freedom Constitution, otherwise known as Proclamation No. 3, dated March 25, 1986, provides that:

All elective and appointive officials under the 1973 Constitution shall continue in office until otherwise provided by proclamation or executive order or upon the designation or appointment and qualification of their successors, if such is made within a period of one year from February 25, 1986.

Under the said provision, the President could validly remove government employees, elected or appointed even without cause.[45] Indeed, it was not required that there be a ground or cause for removal or termination of any employee or official which was elected or appointed under the 1973 Constitution.[46]

However, President Corazon Aquino, seeing the need to obviate unnecessary anxiety and demoralization among deserving officials and employees in the career civil service, issued Executive Order No. 17, dated May 28, 1986, to implement the constitutional provision to protect career civil servants whose qualifications and performance meet the standards of service demanded by the New Government, and to ensure that only those found corrupt, inefficient and undeserving are separated from the government service.[47]

Executive Order No. 17 provided the grounds for the separation of employees from the service and provided limits on what otherwise would be absolute discretion.[48] It established safeguards against the strong arm and ruthless propensity that accompany reorganization under which removals would have been valid and unquestionable even if without cause.[49]

Thus Sec. 1 reads:

Sec. 1. In the course of implementing Article III, Section 2 of the Freedom Constitution, the Head of each Ministry shall see to it that the separation or replacement of officers and employees is made only for justifiable reasons, to prevent indiscriminate dismissals of personnel in the career civil service whose qualifications and performance meet the standards of public service of the New Government.

x x x

The Ministry concerned shall adopt its own rules and procedures for the review and assessment of its personnel, including the identification of sensitive positions which require more rigid assessment of the incumbents, and shall complete such review/assessment as expeditiously as possible but not later than February 24, 1987 to prevent undue demoralization in the public service. (Emphasis supplied)

Sec. 3 of said Executive Order further specified the grounds for separation or replacement, to wit:

- 1) Existence of a case for summary dismissal pursuant to Section 40 of the Civil Service Law;
- 2) Existence of a probable cause for violation of the Anti-Graft and Corrupt Practices Act as determined by the Ministry Head concerned;
- 3) Gross incompetence or inefficiency in the discharge of functions;
- 4) Misuse of public office for partisan political purposes;
- 5) Any other analogous ground showing that the incumbent is unfit to remain in the service or his separation/replacement is in the interest of the service. (Emphasis supplied)

Petitioners claim that Martinez's termination was justified under grounds 2 and 5 above.

The records show, however, that petitioners failed to substantiate the purported grounds for Martinez's

termination. In his testimony, Kaimo could only point to Lupisan, then Acting Head of the Health Department of Quezon City, as the one who recommended Martinez's termination.[50] Lupisan however denied that he ever made such recommendation and claims that he does not know who did so.[51]

Kaimo also admitted that she talked to Martinez, not to give her the opportunity to rebut the charges against her, but only to inform her of the decision of the committee.[52]

Martinez, through a letter dated November 10, 1986 and signed by her husband, also asked Simon for the specific charges against her.[53] Instead of an explanation, however, Martinez received, on November 12, 1986, a letter dated October 30, 1986, dismissing her from the service due to "existence of a probable cause for violation of the Anti-Graft and Corrupt Practices Act as determined by the Ministry Head concerned; and any other analogous ground showing that the incumbent is unfit to remain in the service or her separation/replacement is in the interest of the service." [54]

Petitioners likewise failed to show that they conducted an investigation which was required under the Guidelines for the Review Committee of the Office of the Mayor which they themselves signed. Pertinent portion of said guidelines is hereby quoted as follows:

2. If there is a complaint against a particular employee and/or office investigation is to be conducted in order to determine if there exists a probable cause. In addition thereto, the employee concerned is placed under surveillance, persons and other employees who personally and are interviewed and requested to render their opinions observations on the matter; the department head is requested to render his comments observation and recommendation; a check on the properties and person of the employee; (sic)[55] (Emphasis supplied)

While petitioners claim that an investigation was conducted to evaluate and review the complaint and evidence against Martinez,[56] petitioners were not able to present any proof when and where such investigation was undertaken. In his testimony, petitioner Kaimo could only give vague answers:

ATTY. MARTINEZ: x x x Mr. Witness, did you conduct an impartial investigation?

MR. KAIMO[57] : We did!

ATTY. MARTINEZ: Where and who were investigated?

MR. KAIMO : At the office and investigated were fellow employees!

ATTY. MARTINEZ: Was it in writing?

MR. KAIMO : No, it was not in writing...Just a hearing...

(Interrupted)

x x x

COURT : Who were present during that investigation?

MR. KAIMO : Fellow employees, your Honor.

ATTY. MARTINEZ: Who were those fellow employees?

MR. KAIMO: I think I have the liberty to say that because in the first place, I could not remember! (sic)

ATTY. MARTINEZ: And, Your Honor, I ask that witness be compelled to remember! Or state the names of those who were there!

MR. KAIMO : Principally, the Officer-In-Charge of the

Health Department was there, Dr. Reynaldo Lupisan.

ATTY. MARTINEZ: Who else? Others?

MR. KAIMO : I cannot remember.

ATTY. MARTINEZ: Alright, what testimony did Dr. Lupisan give you?

COURT : ...if you can recall

MR. KAIMO : I don't recall.[58]

Although under Sec. 1 of Executive Order No. 17,[59] Simon as then OIC Mayor, had the power to dismiss government employees even without any formal investigation, the same may be done only in cases where the charges against the employees were serious, the evidence of guilt is strong and when it is shown that the department head exercised sound discretion in dismissing the employee because of wrongful acts and was not prompted by whim or caprice.[60] In the present case, not only were the charges against Martinez vague and couched in general terms, no evidence of her guilt was presented. There is no showing that the officials concerned exercised sound discretion in the exercise of their power.

The words of Executive Order No. 17 are clear. Only those found corrupt, inefficient and undeserving should be separated from the service.[61] Petitioners failed to show that Martinez falls under any of these categories.

As petitioners failed to justify the termination of Martinez and show that they observed due process, the award of damages in Martinez's favor is warranted.

The Court agrees with the RTC and the CA that Martinez is entitled to moral and exemplary damages as well as attorney's fees.

Moral damages are awarded to compensate for any physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injuries unjustly caused the claimant. Although it is incapable of pecuniary estimation, the amount must be somehow proportional to the suffering inflicted. The social standing of the aggrieved party is also essential to the determination of the proper amount to be awarded so that the goal of enabling her to obtain means, diversions or amusements to restore her to the status quo ante would be achieved. Except when the amount awarded is scandalously excessive, trial courts are given discretion in determining the amount.[62] In this case, we find the award of P200,000.00 as moral damages to be proper.

Exemplary damages, which are awarded to set an example for the public good[63] and which are given in accordance to the sound discretion of the court,[64] are also warranted in this case.

Attorney's fees, which are awarded when a party is compelled to litigate or to incur expenses to protect its interest by reason of an unjustified act of another,[65] are also proper in the case at bar as respondent was forced to go to court because of the wrongful act of petitioners.

As to the award of actual damages, however, the RTC failed to explain how it came up with the amount of P31,940.00. Martinez, in her testimony, admitted that she could not present receipts to support her claim for actual damages.[66] She explained however that her claim for actual damages consists of salaries due her covering the period of her unjust separation from the service, as well as expenses of litigation.[67] In the Memorandum she submitted to the RTC, she admitted that, pending trial of the case, she had been paid her salary covering the period of her separation from work.[68] She still asked however for "actual and necessary expenses of litigation" broken down as follows: P24,500.00 as appearance fees; P6,940.00 for transcripts; and an unspecified amount for

court fees.[69] It is to be noted also that in the said Memorandum, Martinez no longer prayed for a separate award for attorney's fees.[70]

In view of Martinez's admission that she has already received her salary covering the period in question, and the award of attorney's fees in this case covers the expenses of litigation which she incurred as a result of the wrongful act of petitioners, the Court deems it proper to delete the award of actual damages from the sum of damages to be given her.

WHEREFORE, the petitions are PARTLY GRANTED. The Decision dated November 29, 2001 and Resolution dated November 13, 2002 of the Court of Appeals are AFFIRMED with MODIFICATION that the award of actual damages in the amount of P31,940.00 is DELETED.

No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Filed by different counsels for petitioner Former Mayor Brigido R. Simon, Jr. on the one hand and for petitioners Former City Administrator Edmundo P. Kaimo and Former Secretary to the Mayor Nestor P. Borromeo on the other, but given only one docket number.

[2] Penned by Associate Justice Eriberto U. Rosario, Jr. and concurred in by Associate Justices Portia Aliño-Hormachuelos and Amelita G. Tolentino; rollo, pp. 103-121.

[3] Id. at 147-148.

[4] Records, Vol. III, p. 496; Exhibit "B", Service Record.

[5] TSN, Florida Martinez, February 28, 1988, pp. 38-39.

[6] Metro Manila Community Health Nursing Council; Association of Nursing Service Administrators of the Philippines; Ministry of Health National League of Nurses, Inc.; Council of Professional Health Association; Council of Health Agencies of the Philippines; Philippine Chamber of Health; Workers Consultative Body for Overseas Employment; UP Institute of Public Health Alumni Society; Class 1948 Ilocos Norte High School Alumni Association; Committee on Health Barangay Marilag; UP Alumni Association; Sadirit San Nicolas; Sadirit Caba La Union; and PGH School of Nursing Alumni Association; Records, Vol. III, p. 495.

[7] Records, Vol. III, p. 487.

[8] Rollo, p. 44 (RTC Decision). See also Records, Vol. III, p. 498 (Motion for Reconsideration filed by Martinez before the Ministry of Justice dated November 12, 1986); p. 509 (Letter of Pedro Martinez to Mayor Simon, dated November 10, 1986).

[9] Id. at 44.

[10] Records, Vol. III, pp. 509-510.

[11] Id. at 528, Exhs. "D" and "9".

[12] Chaired by then Minister of Justice Neptali A. Gonzales, with the following members: Manuel B. Gaité (Representative of the Executive Secretary), Edcel C. Lagman (Deputy Minister of the Ministry of Budget and

Management), Eufemio C. Domingo (Commissioner of the Commission on Audit), Alfredo B. Deza (Executive Director of the Civil Service Commission) and Elmer A. Abueg (Director for Program Coordination and Special Projects of the Presidential Commission on Government Reorganization).

[13] Records, Vol. III, p. 534, Exh. “Q”.

[14] Id. at 532-533.

[15] Records, Vol. III, pp. 536-537, Exhs. “R” & “S”.

[16] Section 9. If the questioned separation from the service is reversed, the petitioner shall be reinstated to his former position, or shall be reappointed to a position of comparable rank and salary in the Ministry or bureau or office under said Ministry. In such cases, the petitioner shall be considered on vacation leave of absence without pay during the time he was out of the service.

[17] Id. at 539, Exh. “U”.

[18] TSN, Reynaldo Lupisan, February 4, 1991, p. 4.

[19] Records, Vol. 1, p. 236, Exh. “10”.

[20] Id. at 4-8.

[21] Although she was considered separated from the service from November 13, 1986 to January 29, 1987 in the letter of Acting City Health Officer Magdalena Ybañez to the City Attorney dated January 29, 1987 (Records, Vol. III, p. 538), Martinez’s complaint prayed for salary covering the period of November 12, 1986 to January 28, 1987.

[22] Art. 21. Any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damages; Records, Vol. I, pp. 7-8.

[23] Records, Vol. I, pp. 4-8.

[24] Records, Vol. I, pp. 33-38.

[25] Rollo, pp. 51-52.

[26] Id. at 52-53.

[27] Id. at 108-109.

[28] Id. at 109-112.

[29] Art. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant’s wrongful act or omission.

[30] Art. 2219. Moral damages may be recovered in the following and analogous cases:

xxx

(10) Acts and actions referred to in articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

xxx.

[31] Art. 27. Any person suffering material or moral loss because a public servant or employee refuses or

neglects, without just cause, to perform his official duty may file an action for damages and other relief against the latter without prejudice to any disciplinary administrative action that may be taken.

[32] Art. 2229. Exemplary or corrective damages are imposed by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

[33] Sec. 4. City not liable for damages-The failure of any city officer to enforce the provisions of this Act or any law or ordinance, or the negligence of said officer while enforcing or attempting to enforce the same, shall not cause the city to be held liable for damages or injuries to persons or property.

[34] Rollo, pp. 112-120.

[35] Id. at 147-148.

[36] Id. at 13.

[37] Id. at 19-25.

[38] Id. at 186.

[39] Id. at 186-204.

[40] Id. at 323-327.

[41] Id. at 334-335.

[42] Id. at 337-352.

[43] Id. at 358-375, 376-422.

[44] Id. at 425-453.

[45] *Dario v. Mison*, G.R. No. 81954, August 8, 1989, 176 SCRA 84, 131.

[46] *Radia v. Review Committee Under Executive Order No. 17*, No. L-78973, January 29, 1988, 157 SCRA 749, 753.

[47] Executive Order No. 17.

[48] *Ontiveros v. Court of Appeals*, G.R. No. 145401, May 7, 2001, 357 SCRA 592, 597.

[49] *Dario v. Mison*, *supra* note 45 at 123.

[50] TSN, Edmundo Kaimo, November 5, 1991, pp. 6-7.

[51] TSN, May 13, 1999, p. 10.

[52] TSN, September 17, 1991, pp. 6-7.

[53] Records, Vol. III, pp. 509-510, Exh. "E".

[54] Records, Vol. III, p. 528, Exhs. "D" and "9".

[55] Records, Vol. I, p. 242, Exh. "7".

[56] Rollo, p. 163.

[57] Spelled as "Caimo" in the transcripts.

[58] TSN, September 3, 1991, pp. 30-32.

[59] “Any office, agency, instrumentality or government-owned or controlled corporation, which is not attached to any ministry, including any of a constitutional commissions and state, colleges and universities, shall be considered a ministry for purposes of this Order,” *Radia v. Review Committee under Exec. Order No. 17*, supra, pp. 755-756.

[60] *Sto. Domingo v. Ordoñez*, No. L-81760, September 29, 1988, 166 SCRA 123, 127-128 citing *In re: Apolinar Flores*, 160 Phil. 549 (1975); *Ganaden v. Bolasco*, 159-A Phil. 340 (1975); *Taga-an v. Roa*, 164 Phil. 462 (1976); *Marcelo v. Tantuico, Jr.*, 226 Phil. 360 (1986); *Gonzales v. Secretary of Labor*, 202 Phil. 151 (1982).

[61] *Dario v. Mison*, supra note 9 at 124.

[62] *Samson v. Bank of Philippine Islands*, 453 Phil. 577, 584 (2003).

[63] *Solidbank Corp. v. Arrieta*, G.R. No. 152720, February 17, 2005, 451 SCRA 711, 722.

[64] *Pilipinas Shell v. John Bordman Ltd. of Iloilo, Inc.*, G.R. No. 159831, October 14, 2005, 473 SCRA 151, 174.

[65] *Id.*

[66] TSN, December 4, 1987, p. 4.

[67] *Id.* at 3-4.

[68] *Records*, Vol. 2, pp. 416, 421.

[69] *Records*, Vol. 2, p. 440.

[70] *Id.*

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.