

CIVIL SERVICE COMMISSION, PETITIONER, VS. COURT OF APPEALS, RESPONDENT.

G.R. NO. 161086. November 24, 2006

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

In response to an anonymous complaint alleging that certain municipal officials and employees of the municipal government of Infanta, Pangasinan had incurred cash shortages and committed graft and corruption, the Commission on Audit (COA) Regional Office No. 1 in San Fernando City, La Union ordered the conduct of a fraud audit.

Following the conduct of an audit from August 17, 1998 to September 30, 1998, the audit team submitted a "Fraud Audit Report" finding, among other things, that the Municipal Treasurer granted various loans to Municipal Officers and Employees amounting to P993,686.09 "in violation of COA Circular 90-331 dated May 3, 1990 putting public funds to become idle and depriving the municipality of using the same to a more productive endeavor for the benefit of the people." [1]

One of the municipal officers and employees to whom loans were extended was Municipal Accountant Luzviminda M. Maniago (Luzviminda) who, at the time the audit was conducted, had an outstanding loan balance of P17,200 [2] but which she had fully paid by the time the audit report was submitted.

Celso M. Manuel (Manuel), a resident of Barangay Patima, Infanta, later filed a complaint against Luzviminda before the Office of the Mayor for violation of Republic Act No. 6713 (CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES) in connection with the grant to her of the loan. In her Answer, Luzviminda claimed that the loan was extended to her by the Municipal Treasurer in the latter's personal capacity.

The then Acting Mayor Charlito M. Kho, by Resolution dated September 20, 2000, found Luzviminda guilty of Grave Misconduct on the basis of the "Fraud Audit Report" [3] and dismissed her from the service.

On Luzviminda's appeal, the Civil Service Commission (CSC) modified Acting Mayor Kho's resolution, finding her guilty only of Conduct Grossly Prejudicial to the Best Interest of the Service and accordingly modifying the penalty to suspension of one year. [4] Her motion for reconsideration having been denied, [5] Luzviminda filed with the Court of Appeals a petition for certiorari.

The Court of Appeals, noting that Luzviminda's remedy should have been to file a petition for review under Rule 43 instead of certiorari, nevertheless held that a rigid application of the Rules would result in a manifest failure or miscarriage of justice [6] and accordingly gave her petition due course.

By Decision [7] of June 18, 2003, the Court of Appeals reversed the CSC decision and ordered the reinstatement of Luzviminda, ratiocinating as follows, quoted verbatim:

The CSC, in partially sustaining the findings of Acting Mayor Kho of Infanta, acted arbitrarily, carelessly and unreasonably. Its only bases are the Fraud Audit Report conducted during the period [of] August 17, 1998 to September 16, 1998 and the letter-complaint of one Cesar Manuel dated August 28, 2000.

In the Fraud Audit Report, it was not established, neither was there any mention that part of the cash shortage in the cash accountability of the Municipal Treasurer was the amount of P17,200.00 which was petitioner's personal loan from said Municipal Treasurer. It is emphasized that the cash shortage of the Municipal Treasurer was a whopping [sic] P1,487,107.40. Even assuming that said amount of P17,200.00 which petitioner personally borrowed from the Municipal Treasurer came from the public funds, the latter is solely responsible therefor, as there was never an iota of evidence to show that petitioner opted to borrow from the public funds.

On the basis of the Fraud Audit Report of 1998, a number of municipal officials and employees were charged before the Office of the Ombudsman, however, only the Municipal Mayor and the Municipal Treasurer were indicted. The petitioner, who is the Municipal Accountant, and the other employees were not found liable by the Office of the Ombudsman. After being cleared of [sic] the Ombudsman, and after two (2) long years or on August 28, 2000, one Cesar Manuel, a resident of Infanta, Pangasinan, whose motive for filing said complaint was not ascertained, filed the complaint against petitioner using as basis the 1998 Fraud Audit Report. Except from the self-serving allegations of complainant Cesar Manuel, no evidence was presented to support his allegations against petitioner.

x x x x

Thus, said Fraud Audit Report could not be a basis for indicting petitioner of Conduct Grossly Prejudicial to the Best Interest of the Service and Dishonesty. When there is possibility of abuse occurs [sic] against the recognition of the existence of power, it is the time for this Court to exercise its naysaying function. Factual findings of administrative agencies are not infallible and will be set aside when they fail the test of arbitrariness, or upon proof of gross abuse of discretion, fraud, or error of law.

x x x x[8] (Underscoring supplied)

The CSC's Motion for Reconsideration was denied,[9] hence, it filed the instant Petition for Review on Certiorari[10] raising issues which are synthesized as follows:

- WHETHER THE COURT OF APPEALS ERRED IN GRANTING LUZVIMINDA'S PETITION FOR CERTIORARI UNDER RULE 65 DESPITE THE AVAILABILITY OF APPEAL UNDER RULE 43 OF THE REVISED RULES OF COURT; and
- WHETHER THERE IS SUBSTANTIAL EVIDENCE TO HOLD LUZVIMINDA GUILTY OF CONDUCT GROSSLY PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE.[11]

Under Rule 65 of the Rules of Court, certiorari may only be availed of when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law.

It is gathered that Luzviminda had up to February 20, 2002 to file a petition for review before the appellate court. On April 22, 2002, she filed a Motion for Extension of Time to File Petition for Certiorari which the appellate court granted, and she eventually filed her Petition for Certiorari.

A special civil action for certiorari is, however, a limited form of review which cannot be used as a substitute for lost or lapsed remedy of appeal. The availability to Luzviminda of the remedy of a petition for review under Rule 43 of the Rules of Court foreclosed her right to resort to certiorari.[12]

At any rate, Luzviminda's petition before the appellate court did not justify a relaxation of the Rules.

It bears noting that an audit team of the COA Regional Office interviewed the Municipal Treasurer herself,[13] following which it confirmed that the amount of loan granted to Luzviminda, not to mention those granted to others in the form of vales, chits, and "I Owe You's,"[14] formed part of the "cash shortage" of the Municipal Treasurer.

And it bears noting too that the decision of Acting Mayor Kho, which the CSC affirmed, was based not only on the Fraud Audit Report, but also on Luzviminda's Answer to the complaint of Manuel wherein she did not deny having secured a loan,[15] her only defense being that the loan did not involve public funds, which defense does not deserve consideration in the absence of any iota of proof thereof.

As for Luzviminda's challenge to the decision of the acting mayor as having been rendered without hearing Manuel's complaint, the same fails.

The absence of a hearing[16] did not deprive Luzviminda of due process. She was given the opportunity to file, and she did file, an Answer[17] to Manuel's complaint against her. She was also afforded the opportunity to appeal to the CSC from the September 20, 2000 Resolution of Acting Mayor Kho.[18]

Due process, as a constitutional precept, does not always and in all situations require a trial-type proceeding. Due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself. In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. As long as a party was given the opportunity to defend his interests in due course, he was not denied due process.[19] (Emphasis and underscoring supplied)

The essence of due process is an opportunity to be heard. One may be heard, not solely by verbal presentation but also, and perhaps even many times more creditably and practicable than oral argument, through pleadings. In administrative proceedings, moreover, technical rules of procedure and evidence are not strictly applied; administrative due process cannot be fully equated to due process in its strict judicial sense.[20] (Emphasis and underscoring supplied)

Finally, Luzviminda's claim of payment does not help her for, as the CSC held,

x x x [Luzviminda's] having obtained a loan for her personal use out of municipal funds, through the active intercession of the Municipal Treasurer, cannot be countenanced. Although already paid in full, said loan resulted in the diversion of municipal funds for purposes other than what the amount was supposed to be appropriated for in the municipality. Thus, public service was prejudiced. x x x[21] (Underscoring supplied)

WHEREFORE, the petition is GRANTED. The challenged decision of the Court of Appeals is REVERSED and SET ASIDE. Resolutions No. 01-1065 and 02-0152 dated June 26, 2001 and January 29, 2001, respectively, of the Civil Service Commission are REINSTATED.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, Garcia, and Velasco, Jr., concur.

[*] Section 4 of Rule 45 provides:

The petition [for review on certiorari] shall . . . (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or

respondents. (Underscoring supplied)

[1] Rollo, p. 59.

[2] Id. at 60.

[3] Id. at 46-152.

[4] Id. at 41.

[5] Id. at 45.

[6] Id. at 27.

[7] Penned by Court of Appeals Associate Justice Eugenio S. Labitoria, with the concurrence of Court of Appeals Justices Andres B. Reyes, Jr. and Regalado E. Maambong. Id. at 22-30.

[8] Id. at 28-29.

[9] Id. at 32.

[10] Id. at 10-20.

[11] Id. at 13-14.

[12] Vide *De los Santos v. Court of Appeals*, G.R. No. 147912, April 26, 2006, 488 SCRA 351, 357.

[13] *Supra* note 1.

[14] Id. at 47.

[15] Id. at 35-36.

[16] Id. at 173.

[17] Id. at 153-154.

[18] Id. at 33-45.

[19] *Cayago v. Lina*, G.R. No. 149539, January 19, 2005, 449 SCRA 29, 44-45.

[20] *Ocampo v. Office of the Ombudsman*, G.R. No. 114683, January 18, 2000, 322 SCRA 17, 22.

[21] *Supra* note 1.

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