AZUCENA B. DON, JOSEPH DETERA, NENITA B. GRESOLA, LETICIA L. ESPENILLA, EDITH G. DETOITO, JULNA D. JAYCO, ROGER ARIARTE, CALVIN DEL VALLE, AND ERLYN RAMIREZ, PETITIONERS, VS. RA...

G.R. NO. 170810. August 07, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Petitioners-public school teachers charged before the Sangguniang Bayan of Juban, Sorsogon respondent Ramon H. Lacsa (respondent), then Punong Barangay of Bacolod, Juban, Sorsogon, with grave threats, oppression, grave misconduct, and abuse of authority.

On the directive of the then vice mayor of the Municipality of Juban in his capacity as presiding officer of the Sangguniang Bayan, respondent filed his Answer.[1]

A Special Investigating Committee (SIC) created by the Sangguniang Bayan to investigate the case found sufficient evidence for the preventive suspension of respondent. The Sangguniang Bayan thus passed a resolution recommending his preventive suspension.

Acting on the recommendation, the mayor slapped a two-month preventive suspension against respondent on January 7, 2005.[2]

The SIC later submitted its report finding respondent guilty of oppression, grave misconduct, and abuse of authority.[3] On March 7, 2005, the Sangguniang Bayan issued Resolution No. 12-2005[4] adopting the SIC Report. By the same resolution, respondent was removed from office.[5]

On March 8, 2005, the mayor issued Executive Order No. 8, Series of 2005[6] implementing Resolution No. 12-2005 of the Sangguniang Bayan and installing Florencio H. Lacsa, the highest ranking Sangguniang Barangay member, in place of Ramon H. Lacsa as Punong Barangay of Bacolod.[7] On even date, respondent received a copy of the executive order, together with a copy of Sangguniang Bayan Resolution No. 12-2005.[8]

Twenty one days after receiving a copy of Sangguniang Bayan Resolution No. 12-2005 or on March 29, 2005, respondent filed before the Regional Trial Court (RTC) of Sorsogon a Petition for Certiorari (With Application for Temporary Restraining Order and/or Writ of Preliminary Injunction)[9] against herein petitioners, along with the Sangguniang Bayan of Juban and Mayor Ma. Teresa Guab-Fragata. The case was docketed as Special Civil Action No. 2005-7513.

By Decision of October 24, 2005, Branch 53 of the RTC of Sorsogon granted respondent's petition and accordingly nullified the mayor's executive order. Thus the trial court ruled:

> x x x x
>
> [Respondent] is entitled to be informed and have a copy of the decision rendered by the Sangguniang Bayan of Juban, Sorsogon pursuant to Section 66 of R.A. 7160, for him to seek the remedies afforded by law, if he so

> desires. x x x [He] received Executive Order No. 8 and attached thereto is Sangguniang Bayan Resolution No. 12-2005, on the same day, March 8, 2005. It appears that the . . . Sangguniang Bayan furnished [him] with a copy of the said resolution not to afford him his remedies on appeal in violation of Section 66 7160, but to execute said resolution hastily . . . in utmost disregard of [his] constitutional right to due process. Pursuant to Section 67 of R.A. 7160, [he] has thirty (30) days from receipt of the said resolution to file an appeal. [He] was not afforded the opportunity to elevate Resolution No. 12-2005 on appeal.
>
> x x x x
>
> Considering the foregoing findings . . . the municipal mayor gravely abused her discretion, amounting to lack of jurisdiction in issuing and executing Executive Order No. 8 . . .
>
> x x x x[10] (Underscoring supplied)
>
> The trial court thus disposed:
>
> Wherefore, premises considered, this court grants the petition for certiorari and orders the following:
>
> - The annulment and setting aside of Executive Order No. 8 dated March 8, 2005 issued by the Municipal Mayor;
>
> - The reinstatement of . . . Ramon H. Lacsa to his position as Punong Barangay of Bacolod, Juban, Sorsogon;
>
> - The payment to the said petitioner of the emoluments/allowances accruing to him from the time of removal from office up to the time of reinstatement thereat;
>
> - Directing the Sangguniang Bayan of Juban, Sorsogon to serve anew the petitioner with a copy of the Decision/Resolution No. 12-2005 and from receipt of which the petitioner shall enjoy his right to appeal such decision to the Sangguniang Panlalawigan pursuant to Section [6]7 of R.A. 7160.
>
> With costs against the respondents Sangguniang Bayan Members and Municipal Mayor.
>
> SO ORDERED.[11]

The trial court having denied[12] petitioners' Motion for Reconsideration,[13] the petitioners filed the present Petition for Review on Certiorari, manifesting early on that they are raising only questions of law. They fault the trial court[14]

- . . . in holding that the Sangguniang Bayan of Juban, Sorsogon, furnished respondent with a copy of its Resolution No. 12-2005, not to afford him his remedy of appeal, but to execute the said resolution hastily in violation of Section 66 of R.A. 7160.

- . . . in holding that the respondent Municipal Mayor issued Executive Order No. 8 in "utmost" disregard of respondent's right to due process, as pursuant to Section 67 of R.A. 7160, he has thirty days from receipt of the aforesaid resolution to file an appeal.

- . . . in holding that the municipal mayor, in promptly executing Sangguniang Bayan Resolution No. 12-2005, committed "grave abuse of discretion amounting to lack of jurisdiction."

- The court a quo erred even more when it restored to respondent, through a writ of execution, the right of administrative appeal which he had abandoned and lost.[15]

The petition is impressed with merit.

The pertinent provision of R.A. 7160, otherwise known as the Local Government Code, reads:

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> Sec. 61(c) - A complaint against any elective barangay official shall be filed before the sangguniang panlungsod or Sangguniang Bayan concerned whose decision shall be final and executory." (Emphasis and underscoring supplied)

The "final and executory" phrase used in the immediately-quoted provision was construed in Mendoza v. Laxina, Sr.[16] to be "immediately executory," albeit the respondent may appeal the adverse decision to the proper office. Thus this Court declared:

> Sections 61 and 67 of the Local Government Code, provide:
> Section 61. Form and Filing of Administrative Complaints. A verified complaint against any erring local elective official shall be prepared as follows:
>
> x x x x
>
> (c) A complaint against any elective barangay official shall be filed before the sangguniang panlungsod or sangguniang bayan concerned whose decision shall be final and executory, (Italics supplied)
>
> Sec. 67. Administrative Appeals. - Decisions in administrative cases may, within thirty (30) days from receipt thereof, be appealed to the following:
>
> x x x x
>
> (b) the Office of the President, in the case of decisions of the sangguniang panlalawigan and the sangguniang panlungsod of highly urbanized cities and independent component cities.
>
> Decisions of the Office of the President shall be final and executory.

In interpreting the foregoing provisions, the trial court did not consider Section 68 of the same code which provides:

> An appeal shall not prevent a decision from being final and executory. The respondent shall be considered as having been placed under preventive suspension during the pendency of an appeal in the event that he wins such appeal. In the event that the appeal results in exoneration, he shall be paid his salary and other such emoluments during the pendency of the appeal.

Obviously, the said Code does not preclude the taking of an appeal. On the contrary, it specifically allows a party to appeal to the Office of the President. The [phrase] "final and executory" x x x in Sections 67 and 68, respectively, of the Local Government Code, are not, as erroneously ruled by the trial court, indicative of the appropriate mode of relief from the decision of the Sanggunian concerned. These phrases simply mean that the administrative appeals will not prevent the enforcement of the decisions. The decision is immediately executory but the respondent may nevertheless appeal the adverse decision to the Office of the President or to the Sangguniang Panlalawigan, as the case may be.[17] (Emphasis and underscoring supplied)

The conditions that would afford respondent to file a petition for certiorari under Rule 65 of the Rules of Court as he did file one before the RTC - that a 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, or any plain, speedy, and adequate remedy in the ordinary course of law - are not here present.

WHEREFORE, the petition is GRANTED. The October 24, 2005 Decision of the Regional Trial Court of Sorsogon City, Branch 53 in Special Civil Action No. 2005-7513 is REVERSED and SET ASIDE.

Resolution No. 12-2005 issued by the Juban, Sorsogon Sangguniang Bayan and Executive Order No. 8, Series of 2005 issued by Mayor Ma. Teresa Guab-Fragata are REINSTATED.

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SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

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[1] RTC records, pp. 19-20.

[2] Rollo, p. 47.

[3] Id. at 46-54.

[4] Id. at 44-45.

[5] Id. at 44.

[6] Id. at 55-57.

[7] Id. at 56-57.

[8] RTC records, p. 4.

[9] Id. at 1-7.

[10] Id. at 64-65.

[11] Id. at 66.

[12] Id. at 80.

[13] Id. at 67-75.

[14] Rollo, pp. 3-26.

[15] Id. at 8-9.

[16] 453 Phil. 1013 (2003).

[17] Id. at 1024-1025 (Citations omitted).

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