

EDUARDO VARELA, PETITIONER, VS. MA. DAISY REVALEZ, RAMON BORROMELO, YOLANDA BARCENILLA, ERNA LOCSIN, GRACE BARUC, VICENTE MIJARES, JR., LOIDA TAJONERA, NIRMLA AGNES MARTINEZ, ANA...

G.R. No. 171705. July 29, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review on certiorari under Rule 45 of the Rules of Court. The petition challenges the 17 August 2005 Decision[1] and 27 February 2006 Resolution[2] of the Court of Appeals in CA-G.R. CV No. 73212. The Court of Appeals affirmed with modification the 20 June 2001 Decision[3] of the Regional Trial Court (RTC), Negros Occidental, Judicial Region 6, Branch 60, Cadiz City in Civil Case No. 547-C.

The Facts

Petitioner Eduardo G. Varela (Varela) was the mayor of Cadiz City. He created a reorganization committee. On 22 September 1998, he submitted to the Sangguniang Panlungsod of Cadiz City the committee's "Proposed Reorganizational Structure and Staffing Pattern of Cadiz City." On the same day, 22 September 1998, the Sangguniang Panlungsod approved without modification and without hearing the proposal. The Sangguniang Panlungsod passed Resolution No. 98-112 authorizing and appropriating funds for the reorganization of the city government. Resolution No. 98-112 declared all positions in the city government vacant, except elective positions and positions in the city and assistant city treasurer. On 15 October 1998, Varela signed Resolution No. 98-112.

On 10 November 1998, Varela gave notices of termination to the city government employees, informing them that their employment would end at the close of business hours on 31 December 1998. The employees opposed and questioned the legality of Resolution No. 98-112. Varela ignored them.

Varela created a placement committee with City Administrator Philip G. Zamora, "Delina, Negosa, Jimmy Navarro, Jerry Batislaon and Napud" as members. The committee allegedly met three times.

On 31 December 1998, Varela again gave notices of termination to the city government employees, informing them that their employment would end at the close of business hours on 31 December 1998. On 4 January 1999, the employees tried to report for work but were barred from entering their offices.

Among those laid off was Community Affairs Officer IV Ramon Borrromeo (Borrromeo). His department, the special services department, was replaced by the community and barangay affairs division. The head of the community and barangay affairs division performed the same functions as the head of the special services department. Three new positions were created in the community and barangay affairs division. The three new positions were given to Oscar Magbanua (Magbanua), Moises Señoren (Señoren), and Santos Ortega (Ortega).

Magbanua, Señoren and Ortega were political supporters of Varela and defeated barangay captain candidates.

Around half of the 101 employees of the city health department were laid off. Those laid off were the same ones who filed a case, involving the magna carta for health workers, against Varela. They were also perceived not to have voted for Varela as mayor.

On 12 January 1999, Ma. Daisy G. Revalez and 40 other city government employees filed with the RTC a complaint[4] against Varela for the declaration of nullity of Resolution No. 98-112 and for damages. In a motion[5] dated 29 January 1999, 47 other city government employees intervened. In the complaint, the employees stated that, "due to the illegal acts of the Defendant, Plaintiffs suffered mental torture and anguish, sleepless nights, wounded feelings, besmirched reputation and social humiliation." [6]

The RTC's Ruling

In its 20 June 2001 Decision, the RTC declared Resolution No. 98-112 void and ordered Varela to pay the government employees P10,000 each for moral damages, P200,000 attorney's fees, P20,000 litigation expenses, and court appearance fees at P3,000 per hearing. The RTC found that Varela acted in bad faith. The Court held:

There is no question that the Sangguniang Panlungsod of Cadiz City is the legislative arm of the local government unit and as such it possesses the power to enact the questioned resolution. Plaintiffs however challenge the manner Res. 98-112 was enacted, and the "indecent haste" that accompanied its passage. The proposal emanated from the office of defendant mayor and in a short time after its submission the measure was passed. The requisite deliberations, if at all there was one, could hardly be considered adequate and could best be described as perfunctory. The minutes of the SP say it all. The deliberations reflected a lackluster effort and a wimpish attempt by the members of the Sangguniang Panlungsod to justify the grant to the mayor of legislative authority to carry out the reorganization. There absolutely was no public hearing. The proposal coming as it did from the mayor, was a fait accompli, a done deal in a manner of speaking. x x x

x x x x

Careful examination of the evidence submitted by the defendant, however, would reveal a systematic effort to purge the city government of personnel who opposed the mayor politically, or disagreed with him in his policies. Furthermore, perusal of the minutes of the deliberations of the Sangguniang Panlungsod reveals that the City of Cadiz was not in dire financial straits necessitating radical measures like mass lay-off of personnel.

x x x

x x x The City of Cadiz as of 1998, was not in financial extremis. It had the money, the resources to fund the salaries of personnel. x x x [Varela] even ignored the concern of a city councilor who said that at that time (1998) the City already lacked the required personnel, and so why abolish certain positions? The defendant mayor simply gave the assurance that they can create any position when the need arises and the city has the money. This statement betrayed the real intentions of the defendant insofar as the reorganization is concerned.

x x x The Mayor did not even explain what basic services would be affected. As a matter of fact, the office hardest hit and greatly affected by the mass layoff was the health services department where 50 or so of the 101 personnel complement were laid off. Does it mean that the delivery of health services is the least of the priorities of Cadiz City? Or does it mean that health service from the point of view of the defendant city mayor is not a basic service? The truth of the matter is that the health workers of Cadiz filed a case against the mayor for his refusal to implement provisions of the Magna Carta for Health Workers. Talk of vindictiveness. The poor health workers laid off were on the receiving end of the ire of the defendant mayor. There seemed to be no rhyme or reason to the reorganization scheme.

x x x x

Was the reorganization of the Cadiz City government under Res. 98-112, done in good faith? The testimony of Ramon Borromeo, which is uncontradicted, will show the true intent of the reorganization, and whether or not it was done in good faith:

"Q

(Atty. Lobrido) - What about your position, Mr. Witness?

A

My position as Community Affairs Officer was abolished but instead an Executive Assistant IV was made under the Division Head of the Community and Barangay Affairs Division.

Q

What is the function of the Community and Barangay Affairs Unit?

A

It performs the same function as that of the Community Affairs Unit of which I am the Division Head as Community Affairs Officer IV.

Q

Considering that you were laid off who took over your function?

A

The Executive Assistant IV, but considering that the position is coterminous with that of the mayor, the appointment of Executive Assistant IV was disapproved by the Civil Service Commission as head of the Community Affairs Unit and the present situation as of now is that the community Affairs and Barangay Unit is without a division head and that three new positions were created.

Q

Who were appointed to the three new positions you mentioned a while ago?

A

Those appointed are Oscar Magbanua, Moises Señoren, and Santos Ortega.

Q

Why do you know these three persons?

A

Because they are supporters of the defendant city mayor and also because they are barangay captains who were defeated in the last barangay elections. (TSN-Cerbo, pp. 8-10, May 3, 2000).

From the afore-quoted testimony it is clear that the abolition of the office of Mr. Borromeo in the guise of reorganization was not done in good faith. The abolition was done for "political reasons," (Arao vs. Luso, L-23982, July 21, 1967, 20 SCRA 722). As stated in Urgello, if the abolition merely resulted in placing another person or appointee with a different designation or name but substantially the same duties, then it will be considered a device to unseat the incumbent. Clearly the reorganization is not genuine and it is nothing but a ruse to defeat the constitutionally protected right of security of tenure.

x x x x

Since all the offices of the personnel of Cadiz City were declared vacant, and notices of initial termination sent on November 10, 1998, the placement Committee barely had twenty (20) days to submit a final report to defendant mayor. With 741 personnel to be reevaluated and screened, plus other new applicants, the committee did not have enough time to do their work as envisioned. The Committee had to screen and evaluate all applications to about 649 positions included in the new plantilla. Notwithstanding time constraints, the Committee did not meet until November 17, barely two (2) weeks from their deadline. Subsequently they met three (3) times. On their first meeting, the report states, the placement Committee merely agreed to ask the defendant mayor to turn over to the Committee all the application letters. Nothing by way of screening or evaluation was done that day. On the second meeting November 18, the applications were "lumped" in bundles or files, and segregated by department. Then they suggested to borrow the qualification standards from the Human Resource Management Office. Due to time constraints, it was suggested that the screening should start immediately, and they agreed to meet November 19, 1998. As of the second meeting the screening and evaluation had barely begun. On November 19, 1998 the committee met with Mr. Zamora suggesting that qualification standards be used mainly eligibility performance rating, education and attainment, experience and awards and training received. Mr. Napud suggested that the department heads be interviewed. As of November 19, the committee had not started its deliberations and screening, but lo and behold Mr. Zamora came up with a complete list in time for the last meeting. On November 29, 1998, Mr. Zamora presented to the members of the committee the list of employees selected by the Placement Committee. Then the list was submitted to the mayor. These were reflected in Minutes of the meeting of the Placement Committee.

On the other hand, what did Mr. Zamora say about the deliberations of the Placement Committee in his capacity as chairman. His testimony is very instructive.

Q

(Atty. Lobrido) And when was the first meeting?

A

I think November 17, 1998.

Q

What transpired during the first meeting?

A

I cannot remember.

xxx xxx

Q

After November 18, 1998 meeting, was there other meeting of the placement committee?

A

Yes, sir.

Q

When was that?

A

On November 19, 1998.

Q

And what transpired during that meeting on November 19, 1998?

A

I cannot remember.

It seems incredulous that Mr. Philip Zamora, designated to represent defendant mayor, would not be able to recall what transpired during the deliberations of the placement committee. Unless it is shown that Mr. Zamora suffered severe bouts of amnesia, it would be the height of tomfoolery to accept that he would not be able to recall the significant highlights of the meetings. Which can only lead this Court to the inescapable conclusion that the minutes (Exhibits 15 to 15-C) were fabricated and contrived, and done after the fact. x x x

x x x Why would Philip Zamora present a list of employees selected to members of the Placement Committee and tell them this is the result of their evaluation? Were not the members of the committee the ones who evaluated and selected the employees? The logical manner that should have taken place would be that the committee members themselves would submit the list to the chairman telling him that this was the result of their evaluation and screening and they were ready to submit the list to the mayor. As it appears the list was a done deal, a fait accompli, and the members were merely told to put their imprimatur to it. The truth of matter however, as can be gleaned from Mr. Zamora's testimony, is that no meetings were ever conducted by the placement committee. Which explains Mr. Zamora's memory lapses. Nothing of the sort happened. What happened was that the minutes were hastily produced as an afterthought and later passed on as the real thing. The entire proceedings was [sic] a sham, a rigmarole intended to put a stamp of legitimacy to what otherwise was a well calculated, well planned scheme to rid Cadiz City of employees who were the political opponents of the defendant mayor. The ploy was to use the law as a subterfuge to defeat the security of tenure clause of the constitution. On top of this masquerade, the defendant city mayor did not show any compunction or any hesitation to ram the reorganization down the throats of plaintiffs who resisted the move and they actually complained. He did not give them the benefit of the doubt, nor listened to their plea for justice. He simply ran roughshod over all of them discarding any pretense to uphold due process of law. It was shocking no less to the 166 plaintiffs who become [sic] sacrificial lambs in the altar of political convenience and expediency. This is anathema in a democratic system where the rule of law reigns supreme.[7] (Emphasis supplied)

Cadiz City Chief Executive Salvador G. Escalante, Jr., through the Office of the City Legal Officer, filed with the RTC a motion[8] to clarify who between Varela, in his personal capacity, and Cadiz City was liable for the payment of moral damages, attorney's fees, litigation expenses and court appearance fees. In its 26 July 2001 Order,[9] the RTC held that, "it is the municipal corporation which is liable for the acts of its officers committed while in the performance of official duties." [10]

Cadiz City, through the Office of the City Legal Officer, appealed to the Court of Appeals.

The Court of Appeals' Ruling

In its 17 August 2005 Decision, the Court of Appeals affirmed with modification the RTC's 20 June 2001 Decision. The Court of Appeals held that Varela was personally liable for the payment of moral damages, attorney's fees, litigation expenses and court appearance fees. It reduced the amounts of attorney's fees and litigation expenses from P200,000 to P100,000 and from P20,000 to P10,000, respectively, and deleted the award of court appearance fees. The Court of Appeals held that:

OUR jurisprudence is replete with cases involving the issue of whether or not a public officer may be held liable for damages in the performance of their [sic] duties, to quote:

"A public official is by law not immune from damages in his personal capacity for acts done in bad faith which, being outside the scope of his authority, are no longer protected by the mantle of immunity for official actions."

"Settled is the principle that a public official may be liable in his personal capacity for whatever damage he may have caused by his act done with malice and in bad faith or beyond the scope of his authority or jurisdiction."

In addition, Book I, Chapter 9 of the Administrative Code of 1987 provides, to quote:

"Section 38. Liability of Superior Officers. -- (1) A public officer shall not be civilly liable for acts done in the performance of his official duties, unless there is a clear showing of bad faith, malice or gross negligence. x x x"

In the case at bar, the court a quo found that bad faith attended the performance of the official acts of the original defendant, Eduardo G. Varela. x x x

WE find no reason to disturb the finding of bad faith by the court a quo considering that the same was amply supported by evidence.[11]

Hence, the present petition.

The Issue

Varela raises as issue that, "THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THE PETITIONER PERSONALLY LIABLE FOR THE PAYMENT OF DAMAGES, ATTORNEY'S FEES AND LITIGATION EXPENSES AS THE PETITIONER WAS SUED IN HIS OFFICIAL, AND NOT IN HIS PERSONAL CAPACITY." [12] Varela states that:

All the proceedings in the lower court show beyond question that the petitioner was charged in his official capacity as then mayor of the real party-defendant, the respondent City of Capiz.

This is expressly shown by the very title, caption and allegations of private respondents' complaint dated January 12, 1999. The fact that petitioner was sued in his representative and official capacity was not contested, and, in fact, admitted by the parties.[13]

The Court's Ruling

The petition is unmeritorious.

Varela was sued in his personal capacity, not in his official capacity. In the complaint, the employees stated that, "due to the illegal acts of the Defendant, Plaintiffs suffered mental torture and anguish, sleepless nights, wounded feelings, besmirched reputation and social humiliation." The State can never be the author of illegal acts.

The complaint merely identified Varela as the mayor of Cadiz City. It did not categorically state that Varela was being sued in his official capacity. The identification and mention of Varela as the mayor of Cadiz City did not automatically transform the action into one against Varela in his official capacity. The allegations in the complaint determine the nature of the cause of action.

In *Pascual v. Beltran*, [14] the Court held that:

[I]n the case at bar, petitioner is actually sued in his personal capacity inasmuch as his principal, the State, can

never be the author of any wrongful act. The Complaint filed by the private respondent with the RTC merely identified petitioner as Director of the Telecommunications Office, but did not categorically state that he was being sued in his official capacity. The mere mention in the Complaint of the petitioner's position as Regional Director of the Telecommunications Office does not transform the action into one against petitioner in his official capacity. What is determinative of the nature of the cause of action are the allegations in the complaint. It is settled that the nature of a cause of action is determined by the facts alleged in the complaint as constituting the cause of action. The purpose of an action or suit and the law to govern it is to be determined not by the claim of the party filling [sic] the action, made in his argument or brief, but rather by the complaint itself, its allegations and prayer for relief.[15] (Emphasis supplied)

WHEREFORE, the Court DENIES the petition. The Court AFFIRMS the 17 August 2005 Decision and 27 February 2006 Resolution of the Court of Appeals in CA-G.R. CV No. 73212.

SO ORDERED.

Nachura, Peralta, Abad, and Mendoza, JJ., concur.

[1] Rollo, pp. 97-106. Penned by Associate Justice Arsenio J. Magpale, with Associate Justices Sesinando E. Villon and Enrico A. Lanzanas concurring.

[2] Id. at 119-120.

[3] Id. at 61-77. Penned by Judge Pepito B. Gellada.

[4] Id. at 38-44.

[5] Id. at 45-49.

[6] Id. at 42.

[7] Id. at 67-75.

[8] Id. at 78-80.

[9] Id. at 95.

[10] Id.

[11] Id. at 101-104.

[12] Id. at 17.

[13] Id. at 18.

[14] G.R. No. 129318, 27 October 2006, 505 SCRA 545.

[15] Id. at 559.

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