

MELANIE P. MONTUERTO, PETITIONER, VS. HONORABLE MAYOR ROLANDO E. TY AND THE SANGGUNIANG BAYAN, REPRESENTED BY HONORABLE VICE-MAYOR RICHARD D. JAGUROS, ALL OF THE MUNICIPALITY OF...

G.R. No. 177736. October 10, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Decision[2] dated October 31, 2006 and Resolution[3] dated March 29, 2007, which affirmed in toto the Resolution of the Civil Service Commission (CSC) dated June 7, 2005.

The antecedents, as found by the CA, are as follows:

On March 17, 1992, petitioner was issued an appointment as Municipal Budget Officer by the then Mayor Supremo T. Sabitsana of the Municipality of Almeria, Biliran. On March 24, 1992, her appointment was approved as permanent by Gerardo Corder, Acting Civil Service Commission Field Officer.

On January 14, 2002, the Sangguniang Bayan of Almeria, Biliran passed Sangguniang Bayan (SB) Resolution No. 01-S-2002 entitled "A Resolution Requesting the Civil Service Commission Regional Office, to Revoke the Appointment of Mrs. Melanie P. Montuerto, Municipal Budget Officer of the Municipality of Almeria, Biliran for Failure to Secure the Required Concurrence from the Sangguniang Bayan."

Consequently, the Municipality of Almeria, Biliran submitted the 201 file of petitioner to Civil Service Commission Regional Office No. VIII (CSCRO No. VIII) which showed that petitioner's appointment lacked the required concurrence of the local sanggunian. On the other hand, petitioner submitted to the same office a Joint-Affidavit[4] executed on March 6, 2002, by the majority of the then members of the Sangguniang Bayan of Almeria, Biliran, the pertinent portion of which reads:

4. Since the regular session focused on the deliberations regarding the municipal budget, the concurrence on the appointment of Municipal Budget Officer Melanie P. Montuerto was not highlighted and the concurrence was inadvertently omitted in the Minutes of the Regular Session for 2 March 1992. But, we can still fully recall that there was really a verbal concurrence on the appointment of Municipal Budget Officer Melanie P. Montuerto x x x.

On March 11, 2002, CSCRO No. VIII issued an Order decreeing:

WHEREFORE, foregoing premises considered, the approval on the appointment of Melanie P. Montuerto as Municipal Budget Officer of LGU-Almeria, Leyte xxx is hereby RECALLED on the ground that it lacks the required concurrence of the majority of all the members of the Sangguniang Bayan of LGU-Almeria, Biliran.

Petitioner moved for reconsideration. Before resolving the motion, CSCRO No. VIII invited Marcelo C. Maceda,

Jr., incumbent SB Secretary, to appear and bring with him any document showing that petitioner's appointment as Municipal Budget Officer had been submitted to the SB for concurrence. In reply, Maceda issued a Certification on June 10, 2002, which reads:

This is to certify that as per records kept on file by this office, there is no record that would show that the appointment of Mrs. Melanie P. Montuerto, as Municipal Budget Officer of Almeria, Biliran was submitted to the Sangguniang Bayan for concurrence from June 1992 up to the present.

However, the SB minutes of the March 2, 1992 regular session pointed out the presence of a budget officer who explained fully the details of the 1992 Municipal Annual Budget of Almeria, Biliran.

Likewise, Maceda submitted a copy of the SB Minutes of the regular session held on March 2, 1992.

On July 9, 2002, CSCRO No. VIII denied petitioner's motion for reconsideration. Aggrieved, petitioner appealed to the CSC Central Office. After due consideration of the pleadings and documents presented, the latter issued CSC Resolution No. 040728 dated July 1, 2004, disposing of petitioner's appeal in this wise:

WHEREFORE, the instant appeal of Melanie P. Montuerto is hereby DISMISSED. Accordingly, the appealed Order dated March 11, 2002 of the Civil Service Commission-Regional Office No. VIII, Palo, Leyte, recalling the initial approval of the appointment of Montuerto as Municipal Budget Officer of Almeria, Biliran, for lack of the required concurrence by the majority of all the members of Sangguniang Bayan, is hereby AFFIRMED.

Petitioner filed a motion for reconsideration which was denied in CSC Resolution No. 050756 dated June 7, 2005. Meanwhile, on July 30, 2004, the Municipal Mayor of Almeria, Biliran issued Office Order No. 15 which directed the indefinite detail of the petitioner to the Cooperative Development Project. In the same office order, the commutable representation and transportation allowance of petitioner was removed. On July 11, 2005, the Municipal Mayor issued a Memorandum terminating the services of petitioner as Municipal Budget Officer pursuant to CSC Resolution No. 050756.

Petitioner filed a Petition for Review under Rule 43 of the Rules of Civil Procedure before the CA, which denied it for lack of merit.

Hence, the instant Petition raising the sole issue of whether the appointment of petitioner as Municipal Budget Officer, without the written concurrence of the Sanggunian, but duly approved by the CSC and after the appointee had served as such for almost ten years without interruption, can still be revoked by the Commission.

We resolve to deny the Petition.

The law is clear. Under Section 443(a) and (d) of Republic Act (R.A.) No. 7160[5] or the Local Government Code, the head of a department or office in the municipal government, such as the Municipal Budget Officer, shall be appointed by the mayor with the concurrence of the majority of all Sangguniang Bayan members[6] subject to civil service law, rules and regulations. Per records, the appointment of petitioner was never submitted to the Sangguniang Bayan for its concurrence or, even if so submitted, no such concurrence was obtained. Such factual finding of quasi-judicial agencies, especially if adopted and affirmed by the CA, is deemed final and conclusive and may not be reviewed on appeal by this Court. This Court is not a trier of facts and generally, does not weigh anew evidence already passed upon by the CA. Absent a showing that this case falls under any of the exceptions to this general rule, this Court will refrain from disturbing the findings of fact of the tribunals below.

Moreover, we agree with the ruling of the CA that the verbal concurrence allegedly given by the Sanggunian, as postulated by the petitioner, is not the concurrence required and envisioned under R.A. No. 7160. The Sanggunian, as a body, acts through a resolution or an ordinance. Absent such resolution of concurrence, the appointment of petitioner failed to comply with the mandatory requirement of Section 443(a) and (d) of R.A. No.

7160. Without a valid appointment, petitioner acquired no legal title to the Office of Municipal Budget Officer, even if she had served as such for ten years.

Accordingly, the CSC has the authority to recall the appointment of the petitioner.[7]

All told, we find no reversible error on the part of the CA.

WHEREFORE, the instant Petition is DENIED for lack of merit. No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Reyes, Leonardo-De Castro, and Brion, JJ., concur.
Corona, J., on leave.

[1] Rollo, pp. 14-23.

[2] Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Arsenio J. Magpale and Priscilla Baltazar-Padilla concurring; id. at 25-37.

[3] Rollo, pp. 39-43.

[4] Id. at 90-91.

[5] SEC. 443. Officials of the Municipal Government. -- (a) There shall be in each municipality a municipal mayor, a municipal vice-mayor, sangguniang bayan members, a secretary to the sangguniang bayan, a municipal treasurer, a municipal assessor, a municipal accountant, a municipal budget officer, a municipal planning and development coordinator, a municipal engineer/building official, a municipal health officer and a municipal civil registrar.

x x x x

(d) Unless otherwise provided herein, heads of departments and offices shall be appointed by the municipal mayor with the concurrence of the majority of all the sangguniang bayan members, subject to civil service law, rules and regulations. The sangguniang bayan shall act on the appointment within fifteen (15) days from the date of its submission; otherwise, the same shall be deemed confirmed (Emphasis supplied).

[6] Municipality of La Libertad, Negros Oriental v. Penaflor, G.R. No. 155477, March 18, 2005, 453 SCRA 833, 841.

[7] Sales v. Carreon, Jr., G.R. No. 160791, February 13, 2007, 515 SCRA 597, 607.

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