

**LEAH M. NAZARENO, CARLO M. CUAL, ROGELIO B. CLAMONTE,
FLORECITA M. LLOSA, ROGELIO S. VILLARUBIA, RICARDO M.
GONZALES, JR., ROSSEL MARIE G. GUTIERREZ, NICANOR F.
VILLAROSA, JR., ...**

G.R. No. 181559. October 02, 2009

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The integrity and reliability of our civil service is, perhaps, never more sorely tested than in the impassioned demagoguery of elections. Amidst the struggle of personalities, ideologies, and platforms, the vigor and resilience of a professional civil service can only be preserved where our laws ensure that partisanship plays no part in the appointing process. Consequently, we affirm the validity of a regulation issued by the Civil Service Commission (CSC or the Commission) intended to ensure that appointments and promotions in the civil service are made solely on the basis of qualifications, instead of political loyalties or patronage.

This Petition for Review on Certiorari filed under Rule 45 of the Rules of Court seeks to reverse the Decision[1] of the Court of Appeals dated August 28, 2007 and its Resolution[2] dated January 11, 2008 in CA-G.R. CEB-SP No. 00665. The case stemmed from CSC Field Office's invalidation of petitioners' appointments as employees of the City of Dumaguete, which was affirmed by the CSC Regional Office, by the Commission en banc and by the Court of Appeals.

Legal and Factual Backgrounds

Accreditation of Dumaguete
City by the Civil Service
Commission

On October 25, 1999, pursuant to the Commission's Accreditation Program, the CSC issued Resolution No. 992411,[3] which granted the City Government of Dumaguete the authority to take final action on all its appointments, subject to, inter alia, the following conditions:

- That the exercise of said authority shall be subject to Civil Service Law, rules and regulations and within the limits and restrictions of the implementing guidelines of the CSC Accreditation Program as amended (MC No. 27, s. 1994);

x x x x

- That appointments issued under this authority shall be subject to monthly monitoring by the [Civil Service Field Office] CSFO concerned;

x x x x

- That appointments found in the course of monthly monitoring to have been issued and acted upon in violation

of pertinent rules, standards, and regulations shall immediately be invalidated by the Civil Service Regional Office (CSRO), upon recommendation by the CSFO.

Appointments made by
outgoing Mayor Remollo

Then Dumaguete City Mayor Felipe Antonio B. Remollo sought re-election in the May 14, 2001 elections, but lost to respondent Mayor Agustin R. Perdices. Thereafter, on June 5, 7, and 11, 2001, outgoing Mayor Remollo promoted 15 city hall employees, and regularized another 74 city hall employees, including the herein 52 petitioners.

On July 2, 2001, Mayor Perdices publicly announced at the flag raising ceremony at the Dumaguete City Hall grounds that he would not honor the appointments made by former Mayor Remollo. On the same day, he instructed the City Administrator, respondent Dominador Dumalag, Jr., to direct respondent City Assistant Treasurer Erlinda C. Tumongha (now deceased), to refrain from making any cash disbursements for payments of petitioners' salary differentials based on their new positions.

The Petition for Mandamus
before the Regional Trial
Court of Dumaguete City

Thus, on August 1, 2001, petitioners filed a Petition for Mandamus with Injunction and Damages with Prayer for a Temporary Restraining Order against the City of Dumaguete, represented by respondent city mayor Perdices and city officers Dumalag, Tumongha, Josephine Mae Flores, and Araceli Campos. The petition was docketed as Civil Case No. 13013, and raffled to Branch 41 of the Regional Trial Court of Dumaguete City. Petitioners sought the issuance of a writ of preliminary injunction to enjoin respondents from taking any action or issuing any orders nullifying their appointments.

In a Decision[4] dated March 27, 2007, the Regional Trial Court dismissed the petition; petitioners' Motion for Reconsideration was also denied in an Order[5] dated April 26, 2007. The issues involved in Civil Case No. 13013 have twice been elevated to and eventually resolved by the Court in G.R. Nos. 177795[6] and 168484.[7]

Revocation of Appointments
by the Civil Service
Commission Field Office

Relative to this main case, on August 1, 2001, the CSC Field Office in Dumaguete City, through Director II Fabio R. Abucejo, revoked and invalidated the appointments of the petitioners (the August 1, 2001 Order) based of the following findings:

- There were a total of 15 promotional appointments and 74 original appointments issued as reflected in the submitted [Report of Personnel Actions] ROPA for the month of June 2001.
- There was only one (1) en banc meeting of the City Personnel Selection Board (PSB) held on 5 June 2001 to consider the number of appointments thus issued and there was no other call for a PSB meeting certified to by the City [Human Resource Management Officer] HRMO.
- There were no minutes available to show the deliberations of the PSB of the 89 appointments listed in the ROPA as certified by the City HRMO.
- There were no PSB statements certifying that there was actual screening and evaluation done on all candidates for each position.

- The appointing officer of the 89 appointments was an outgoing local official who lost during the 14 May 2001 elections for City Mayor of Dumaguete City.
- The 89 appointments were all issued after the elections and when the new city mayor was about to assume office.[8]

Director Abucejo invalidated the appointments as the same were done in violation of CSC Resolution No. 010988 dated June 4, 2001, the pertinent portions of which provide:

WHEREAS, the May 14, 2001 national and local elections have just concluded and the Commission anticipates controversies that would arise involving appointments issued by outgoing local chief executives immediately before or after the elections;

WHEREAS, the Commission observed the tendency of some outgoing local chief executives to issue appointments even after the elections, especially when their successors have already been proclaimed.

WHEREAS, the practice of some outgoing local chief executives causes animosities between the outgoing and incoming officials and the people who are immediately affected and are made to suffer the consequences thereof are the ordinary civil servants, and eventually, to a large extent, their constituents themselves;

WHEREAS, one of the reasons behind the prohibition in issuing appointments or hiring new employees during the prohibited period as provided for in CSC Memorandum Circular No. 7, series of 2001, is to prevent the occurrence of the foregoing, among others;[9]

WHEREAS, local elective officials whose terms of office are about to expire, are deemed as "caretaker" administrators who are duty bound to prepare for the smooth and orderly transfer of power and authority to the incoming local chief executives;

WHEREAS, under Section 15, Article VII of the Constitution, the President or Acting President is prohibited from making appointments two (2) months immediately before the next presidential elections and up to the end of his term, except temporary appointments to executive positions when continued vacancies therein will prejudice public service or endanger public safety;

WHEREAS, while there is no equivalent provision in the Local Government Code of 1991 (Republic Act 7160) or in the Civil Service Law (Book V of Executive Order No. 292) of the abovestated prohibition, the rationale against the prohibition on the issuance of "midnight appointments" by the President is applicable to appointments extended by outgoing local chief executives immediately before and/or after the elections;

x x x x

NOW THEREFORE, the Commission, pursuant to its constitutional mandate as the control personnel agency of the government, hereby issues and adopts the following guidelines:

x x x x

3. All appointments, whether original, transfer, reemployment, reappointment, promotion or demotion, except in cases of renewal and reinstatement, regardless of status, which are issued AFTER the elections, regardless of their dates of effectivity and/or date of receipt by the Commission, including its Regional or Field Offices, of said appointments or the Report of Personnel Actions (ROPA) as the case may be, shall be disapproved unless the following requisites concur relative to their issuance:

- a) The appointment has gone through the regular screening by the Personnel Selection Board (PSB) before the prohibited period on the issuance of appointments as shown by the PSB report or minutes of its meeting;
- b) That the appointee is qualified;

c) There is a need to fill up the vacancy immediately in order not to prejudice public service and/or endanger public safety;

d) That the appointment is not one of those mass appointments issued after the elections.

4. The term "mass appointments" refers to those issued in bulk or in large number after the elections by an outgoing local chief executive and there is no apparent need for their immediate issuance.

On September 4, 2001, petitioners filed a Motion for Reconsideration of the August 1, 2001 Order before the CSC Region VII Office in Cebu. The motion was, however, denied on the ground that it should have been filed before the office of Director Abucejo in Dumaguete City. Thereafter, on October 31, 2001, petitioners asked the CSC Region VII Office in Cebu to treat their previous Motion for Reconsideration as their appeal.

On February 14, 2002, the CSC Region VII Office affirmed the August 1, 2001 Order. Subsequently, an Appeal to the Commission en banc was filed through registered mail by 52 of the original 89 appointees, the petitioners herein, namely:

Name

Former Position

New Position

Date of Appointment

1. Leah M. Nazareno

Legal Researcher

Asst. Dept. Head I

7-Jun-01

2. Carlo M. Cual

Legislative Staff Officer I

Legislative Staff Officer III

5-Jun-01

3. Rogelio B. Clamonte

Public Services

Supply Officer IV

5-Jun-01

4. Florecita Llosa

Supply Officer I

Records Officer II

11-Jun-01

5. Rogelio S. Villarubia

Agriculturist II

Agriculturist III

5-Jun-01

6. Rossel Marie G. Gutierrez

Casual/Plantilla

Supervising Environmental
Management Specialist

5-Jun-01

7. Nicanor F. Villarosa, Jr.

Casual/Plantilla

Dentist II

5-Jun-01

8. Marie Sue Cual

Casual/Plantilla

Social Welfare Officer I

7-Jun-01

9. Miramichi Majella B. Mariot

Casual/Plantilla

Records Officer II

7-Jun-01

10. Alma F. Ramirez

Casual/Plantilla

Clerk IV

7-Jun-01

11. Antolin D. Zamar, Jr.

Casual/Plantilla

Metro Aide II

11-Jun-01

12. Mario S. Aliling

Casual/Plantilla

Driver II

5-Jun-01

13. Teodulo Salvoro, Jr.

Casual/Plantilla

Metro Aide II

5-Jun-01

14. Philip Janson Altamarino

Casual/Plantilla

Clerk I

5-Jun-01

15. Antonieta Padura

Casual/Plantilla

Metro Aide II

11-Jun-01

16. Adolfo Cornelia

Casual/Plantilla

Metro Aide II

11-Jun-01

17. Ian Ryan Patula

Casual/Plantilla

Metro Aide II

7-Jun-01

18. William Tanoy

Casual/Plantilla

Metro Aide II

5-Jun-01

19. Victor Arbas

Casual/Plantilla

Public Services Foreman

7-Jun-01

20. Jeanith Cual

Casual/Plantilla

Utility Worker II

5-Jun-01

21. Braulio Sayson

Casual/Plantilla

Mechanical Plant Supervisor

7-Jun-01

22. Dawn Villarosa

Casual/Plantilla

Clerk I

7-Jun-01

23. Agustin Rendoque

Casual/Plantilla

Utility Worker I

7-Jun-01

24. Enriqueta Tumongha

Casual/Plantilla

Utility Worker II

5-Jun-01

25. Lionel Banogon

Casual/Plantilla

Clerk II

5-Jun-01

26. Rosalito Vergantinos

Casual/Plantilla

Pest Control Worker II

5-Jun-01

27. Mario Cual, Jr.

Casual/Plantilla

Utility Foreman

7-Jun-01

28. Elaine Tumongha

Casual/Plantilla

Registration Officer I

11-Jun-01

29. Norman Villarosa

Casual/Plantilla

Utility Worker I

5-Jun-01

30. Ricardo C. Patula

Casual/Plantilla

Revenue Collection Clerk I

5-Jun-01

31. Rachel Banagua

Casual/Plantilla

Utility Worker I

5-Jun-01

32. Rodolfo Calugcugan

Job Order

Driver I

7-Jun-01

33. Pergentino Cual

Job Order

Metro Aide II

11-Jun-01

34. Bernard Ozoa

Job Order

Utility Worker I

7-Jun-01

35. Roger J. Aromin

Job Order

Utility Worker I

7-Jun-01

36. Cheryl Nocete

Job Order

Utility Worker I

11-Jun-01

37. Marivic Sanchez

Job Order

Utility Worker I

11-Jun-01

38. Crispin Duran

Job Order

Metro Aide II

11-Jun-01

39. Rebeco Lingcong

Job Order

Metro Aide II

5-Jun-01

40. Anna Lee Estrabela

Job Order

Cash Clerk III

5-Jun-01

41. Melchor Maquiling

Job Order

Engineer I

7-Jun-01

42. Raul Molas

Job Order

Construction and Maintenance Foreman

7-Jun-01

43. Oscar Kinikito

Job Order

Electrician II

7-Jun-01

44. Darwin Conejos

Job Order

Engineering Aide

7-Jun-01

45. Romel Cual

Job Order

Metro Aide II

11-Jun-01

46. Roqueta Amor

Job Order

Dental Aide

5-Jun-01

47. Diosdado Lajato

Job Order

Pest Control Worker II

5-Jun-01

48. Paul Pino

Job Order

Utility Worker II

5-Jun-01

49. Lito Piñero

Job Order

Metro Aide II

11-Jun-01

50. Rodolfo Zosa, Jr.

Job Order

Metro Aide II

11-Jun-01

51. Jorge Arbolado

Job Order

Traffic Aide I

5-Jun-01

52. Ricardo M. Gonzales, Jr.

OIC-General Services Officer

Asst. Dept. Head I

5-Jun-01

Ruling of the CSC en banc and the Court of Appeals

On August 23, 2004, the CSC en banc issued Resolution No. 040932 denying petitioners' appeal, and affirming the invalidation of their appointments on the ground that these were mass appointments made by an outgoing local chief executive.[10] The Commission explained:

The rationale behind the prohibition in CSC Resolution No. 01-0988 is not hard to comprehend. The prohibition is designed to discourage losing candidates from extending appointments to their protégés or from giving their constituents "promised" positions (CSC Resolution No. 97-0317 dated January 17, 1997, Re: Roldan B. Casinillo). Moreover, the same is intended to prevent the outgoing local chief executive from hurriedly issuing appointments which would subvert the policies of the incoming leadership. Thus, any means that would directly or indirectly circumvent the purposes for which said Resolution was promulgated should not be allowed, particularly when the appointments were issued by the appointing authority who lost in said election.

Petitioners filed a Motion for Reconsideration which was denied by the Commission on April 11, 2005, through CSC Resolution No. 050473.

Petitioners then filed a petition for review before the Court of Appeals, which was docketed as CA-G.R. CEB-SP No. 00665. On August 28, 2007, the Court of Appeals denied the appeal and affirmed CSC Resolution No. 040932 dated August 23, 2004 and CSC Resolution No. 050473 dated April 11, 2005, ratiocinating that:

The spirit behind CSC Resolution No. 010988 is evident from its preamble. It was issued to thwart the nefarious practice by outgoing local chief executives in making appointments before, during, and/or after the regular local elections for ulterior partisan motives. Said practice being analogous to "midnight appointments" by the President or Acting President, the CSC then promulgated Resolution No. 010988, to suppress the mischief and evils attributed to "mass appointments" made by local chief executives.

Petitioners' Motion for Reconsideration was denied by the Court of Appeals in a Resolution dated January 11, 2008.

THE PARTIES' ARGUMENTS

Before us, petitioners maintain that CSC Resolution No. 010988 is invalid because the Commission is without authority to issue regulations prohibiting mass appointments at the local government level. Petitioners cite *De Rama v. Court of Appeals*[11] which held that Section 15, Article VII of the Constitution is only applicable to the President or Acting President. They claim that outgoing or defeated local appointing authorities are authorized to make appointments of qualified individuals until their last day in office, and that not all mass appointments are invalid. Finally, petitioners claim that because Dumaguete City had been granted authority to take "final action" on all appointments, the Commission did not have any authority to disapprove the appointments made by outgoing mayor Remollo.

In their Comment dated May 15, 2008,[12] respondents argue that petitioners' appointments violated civil service rules and regulations other than CSC Resolution No. 010988. Respondents also assert that the Commission is authorized to invalidate the petitioners' appointments, because the CSC accreditation program carried with it the

caveat that "said exercise of authority shall be subject to Civil Service law, rules and regulations." Finally, respondents claim that petitioners were guilty of forum shopping because the issues in this case and in G.R. No. 177795 are the same.

OUR RULING

We find that the Civil Service Commission has the authority to issue CSC Resolution No. 010988 and that the invalidation of petitioners' appointments was warranted. Consequently, we affirm the Decision of the Court of Appeals dated August 28, 2007 and its Resolution dated January 11, 2008 in CA-G.R. CEB-SP No. 00665.

The CSC has the authority to
establish rules to promote
efficiency in the civil service

The Commission, as the central personnel agency of the government,[13] has statutory authority to establish rules and regulations to promote efficiency and professionalism in the civil service. Presidential Decree No. 807,[14] or the Civil Service Decree of the Philippines, provides for the powers of the Commission, including the power to issue rules and regulations and to review appointments:

Section 9: Powers and functions of the Commission - The Commission shall administer the Civil Service and shall have the following powers and functions:

x x x x

(b) Prescribe, amend, and enforce suitable rules and regulations for carrying into effect the provisions of this Decree x x x

(c) Promulgate policies, standards, and guidelines for the Civil Service and adopt plans and programs to promote economical, efficient, and effective personnel administration in the government;

x x x x

(h) Approve all appointments, whether original or promotional, to positions in the civil service, except those of presidential appointees, members of the armed forces of the Philippines, police forces, firemen, and jailguards, and disapprove those where the appointees do not possess the appropriate eligibility or required qualifications; (Emphasis supplied)

Executive Order No. 292, or the Administrative Code of 1987, also provides:

Section 12: Powers and Functions - The Commission shall have the following powers and functions:

x x x x

(2) prescribe, amend, and enforce rules and regulations for carrying into effect the provisions of the Civil Service Law and other pertinent laws;

(3) promulgate policies, standards, and guidelines for the Civil Service and adopt plans and programs to promote economical, efficient, and effective personnel administration in the government;

(4) take appropriate action on all appointments and other personnel matters in the Civil Service including extension of Service beyond retirement age;

(5) inspect and audit the personnel actions and programs of the departments, agencies, bureaus, offices, local government units, and other instrumentalities of the government, including government owned and controlled corporations. (emphasis supplied)

Clearly, the above-cited statutory provisions authorize the Commission to "prescribe, amend, and enforce" rules to cover the civil service. The legislative standards to be observed and respected in the exercise of such delegated authority are set out in the statutes, to wit: to promote "economical, efficient, and effective personnel administration."

The Reasons behind CSC
Resolution No. 010988

We also find that there was substantial reason behind the issuance of CSC Resolution No. 010988. It is true that there is no constitutional prohibition against the issuance of "mass appointments" by defeated local government officials prior to the expiration of their terms. Clearly, this is not the same as a "midnight appointment," proscribed by the Constitution, which refers to those appointments made within two months immediately prior to the next presidential election.[15] As we ruled in *De Rama v. Court of Appeals*:[16]

The records reveal that when the petitioner brought the matter of recalling the appointments of the fourteen (14) private respondents before the CSC, the only reason he cited to justify his action was that these were midnight appointments that are forbidden under Article VII, Section 15 of the Constitution. However, the CSC ruled, and correctly so, that the said prohibition applies only to presidential appointments. In truth and in fact, there is no law that prohibits local elective officials from making appointments during the last days of his or her tenure.

However, even while affirming *De Rama*, we explained in *Quirog v. Aumentado*:[17] that:

We, however, hasten to add that the aforementioned ruling does not mean that the *raison d'etre* behind the prohibition against midnight appointments may not be applied to those made by chief executives of local government units, as here. Indeed, the prohibition is precisely designed to discourage, nay, even preclude, losing candidates from issuing appointments merely for partisan purposes thereby depriving the incoming administration of the opportunity to make the corresponding appointments in line with its new policies. (Emphasis supplied)

Quirog also involved the disapproval of an appointment for non-compliance with CSC Resolution No. 010988. However, we found that Quirog's appointment was made on June 1, 2001, or three days prior to the issuance of CSC Resolution No. 010988. As such, we ruled that the retroactive application of the law was not warranted.

In *Sales v. Carreon, Jr.*:[18] we had occasion to discuss the reasons behind the prohibition by the Commission of mass appointments after the elections. *Sales* involved the issuance of 83 appointments made by then Dapitan City Mayor Joseph Cedrick O. Ruiz in his last month of office (on June 1, 18, and 27, 2001), which the newly elected Mayor, Rodolfo H. Carreon, subsequently revoked, on the ground that these violated CSC Resolution No. 010988 in relation to CSC Memorandum Circular No. 7, Series of 2001, imposing a ban on issuing appointments in the civil service during the election period. In *Sales*, we declared:

This case is a typical example of the practice of outgoing local chief executives to issue "midnight" appointments, especially after their successors have been proclaimed. It does not only cause animosities between the outgoing and the incoming officials, but also affects efficiency in local governance. Those appointed tend to devote their time and energy in defending their appointments instead of attending to their functions.[19]

It is not difficult to see the reasons behind the prohibition on appointments before and after the elections. Appointments are banned prior to the elections to ensure that partisan loyalties will not be a factor in the appointment process, and to prevent incumbents from gaining any undue advantage during the elections. To this end, appointments within a certain period of time are proscribed by the Omnibus Election Code and related

issuances.[20] After the elections, appointments by defeated candidates are prohibited, except under the circumstances mentioned in CSC Resolution No. 010988, to avoid animosities between outgoing and incoming officials, to allow the incoming administration a free hand in implementing its policies, and to ensure that appointments and promotions are not used as a tool for political patronage or as a reward for services rendered to the outgoing local officials.

Not all Mass Appointments are Prohibited

Indeed, not all appointments issued after the elections by defeated officials are invalid. CSC Resolution No. 010988 does not purport to nullify all "mass appointments." However, it must be shown that the appointments have undergone the regular screening process, that the appointee is qualified, that there is a need to fill up the vacancy immediately, and that the appointments are not in bulk. In *Nazareno v. Dumaguete*,[21] we explained:

CSC Resolution No. 010988 does not totally proscribe the local chief executive from making any appointments immediately before and after elections. The same Resolution provides that the validity of an appointment issued immediately before and after elections by an outgoing local chief executive is to be determined on the basis of the nature, character, and merit of the individual appointment and the particular circumstances surrounding the same.

Corollarily, we held in *Sales*,[22] that:

x x x [e]ach appointment must be judged on the basis of the nature, character, and merits of the individual appointment and the circumstances surrounding the same. It is only when the appointments were made en masse by the outgoing administration and shown to have been made through hurried maneuvers and under circumstances departing from good faith, morality, and propriety that this Court has struck down "midnight" appointments.

In the instant case, Mayor Remollo issued the 89 original and promotional appointments on three separate dates, but within a ten-day period, in the same month that he left office.[23] Further, the Commission's audit found violations of CSC rules and regulations that justified the disapproval of the appointments. In this regard, CSC Memorandum Circular No. 40, otherwise known as the Revised Rules on Appointments and Other Personnel Actions, provides:

Section 1 - Appointments submitted to the CSC office concerned should meet the requirements listed hereunder. Non-compliance with such requirements shall be grounds for disapproval of said appointments:

x x x x

(h) Personnel Selection Board (PSB) Evaluation/Screening. Appointees should be screened and evaluated by the PSB, if applicable. As proof thereof, a certification signed by the Chairman of the Board at the back of the appointment or alternatively, a copy of the proceedings/ minutes of the Board's deliberation shall be submitted together with the appointment. The issuance of the appointment shall not be earlier than the date of the final screening/deliberation of the PSB.

Here, there was only one en banc meeting of the city PSB to consider the appointments, without any evidence that there were any deliberations on the qualifications of the petitioners, or any indication that there was an urgent need for the immediate issuance of such appointments. The absence of evidence showing careful consideration of the merits of each appointment, and the timing and the number of appointments, militate against petitioners' cause. On the contrary, the prevailing circumstances in this case indicate that the appointments were hurriedly issued by the outgoing administration.

The Accreditation of
Dumaguete City did not
remove the CSC's authority
to review appointments

We find that the authority granted by CSC Resolution No. 992411 to the City Government of Dumaguete to "take final action" on all its appointments did not deprive the Commission of its authority and duty to review appointments. Indeed, Resolution No. 992411 states that such exercise of authority shall be "subject to civil service law, rules and regulations" and that appointments in violation of pertinent rules "shall immediately be invalidated."

Moreover, Section 20, Rule VI of the Omnibus Rules Implementing Book V of Executive Order No. 292 provides that notwithstanding the initial approval of an appointment, the same may be recalled for "[v]iolation of other existing Civil Service laws, rules and regulations." The CSC is empowered to take appropriate action on all appointments and other personnel actions and that such power "includes the authority to recall an appointment initially approved in disregard of applicable provisions of Civil Service law and regulations." [24]

Petitioners have not engaged
in forum shopping

The essence of forum-shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment. [25] Forum-shopping has been defined as the act of a party against whom an adverse judgment has been rendered in one forum, seeking and possibly getting a favorable opinion in another forum, other than by appeal or the special civil action of certiorari, or the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition. [26]

Although the factual antecedents of the cases brought before this Court are the same, they involve different issues. The petition for Mandamus with Injunction and Damages, docketed as Civil Case No. 13013, and raised before this Court as G.R. No. 177795, challenged respondents' refusal to recognize petitioners' appointments and to pay petitioners' salaries, salary adjustments, and other emoluments. The petition only entailed the applications for the issuance of a writ of mandamus and for the award of damages. The present case docketed as G.R. No. 181559, on the other hand, involves the merits of petitioners' appeal from the invalidation and revocation of their appointments by the CSC-Field Office, which was affirmed by the CSC-Regional Office, CSC en banc, and the Court of Appeals.

In any event, this issue had already been settled in our Decision of June 19, 2009 in G.R. No. 177795, which found petitioners not guilty of forum shopping, to wit:

True, that the [Petition in G.R. No. 177795] and the one in G.R. No. 181559 are interrelated, but they are not necessarily the same for this Court to adjudge that the filing of both by petitioners constitutes forum shopping. In G.R. No. 181559, the Court will resolve whether or not the petitioners' appointments are valid. [In G.R. No. 177795], petitioners are claiming a right to the salaries, salary adjustments and other emoluments during the pendency of the administrative cases, regardless of how the CSC decided the validity of their appointments.

WHEREFORE, the petition is DENIED for lack of merit. The Court of Appeals' Decision in CA-G.R. CEB-SP No. 00665 dated August 28, 2007 affirming CSC Resolution No. 040932 dated August 23, 2004 and CSC Resolution No. 050473 dated April 11, 2005, and its Resolution dated January 11, 2008 denying the Motion for Reconsideration are AFFIRMED.

SO ORDERED.

Puno, C.J., Ynares-Santiago, Carpio, Corona, Carpio Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Peralta, Bersamin, and Abad, JJ., concur.

Quisumbing, J., on official leave.

Brion, J., sick leave.

[1] Rollo, pp. 40-55; penned by Associate Justice Pampio A. Abarintos, and concurred in by Associate Justices Priscilla Baltazar-Padilla and Stephen C. Cruz.

[2] Id. at 57-59.

[3] Id. at 212-214.

[4] See *Nazareno v. City of Dumaguete*, G.R. No. 177795, June 19, 2009.

[5] Id.

[6] Id. In this case, we affirmed the Decision dated March 27, 2007 and Order dated April 26, 2007 of the Regional Trial Court. We ruled that petitioners were not entitled to the issuance of a writ of mandamus ordering respondents to pay petitioners' salaries, salary adjustments, and other emoluments, from September 28, 2001 until final resolution of the case since there was no ministerial duty compellable by a writ of mandamus. We also ruled that petitioners were not, as yet, entitled to an award for damages resulting from the invalidation of their appointments.

[7] *Nazareno v. City of Dumaguete*, July 12, 2007, 527 SCRA 508. Involved in this case is a Petition for Review on Certiorari of the Decision of the Court of Appeals dated January 30, 2004 in CA-G.R. SP No. 70254, and its Resolution dated May 6, 2005. The assailed Decision affirmed with modification the Orders issued by the Regional Trial Court of Dumaguete City, Branch 41, dated September 26, 2001 and January 17, 2001, in Civil Case No. 13013. We held that both the "appointing authority" and the appointee may question the disapproval of an appointment. In this case, the appointing authority who had the right to assail the invalidation of the appointment is the mayor occupying the position at the time of the institution of the appeal and not the former mayor who made the assailed appointment. Aggrieved parties, including the Civil Service Commission and the appointee, also have the right to file motions for reconsideration or to appeal.

[8] Rollo, pp. 146-147.

[9] Memorandum Circular No. 7, Series of 2001, prescribes specific guidelines relating to the transfer, detail, and issuance of appointments to civil personnel during elections, namely: (1) a prohibition on the transfer or detail of personnel within the period from January 2, 2001 until June 13, 2001; and (2) a prohibition of new appointments, promotions, or increases in salary from March 30, 2001 to May 14, 2001.

[10] Rollo, pp. 148-157; penned by Commissioner Waldemar Valmores, and concurred in by Chairman Karina Constantino-David and Commissioner Cesar D. Buenaflor.

[11] G.R. No. 131136, February 28, 2001, 353 SCRA 94, 102.

[12] Rollo, pp. 124-173.

[13] Article IX(B), Section 3 of the Constitution provides:

SECTION 3. The Civil Service Commission, as the central personnel agency of the Government, shall establish a

career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. It shall submit to the President and the Congress an annual report on its personnel programs.

[14] Providing For The Organization Of The Civil Service Commission In Accordance With Provisions Of The Constitution, Prescribing Its Powers And Functions And For Other Purposes (October 6, 1975).

[15] Article VII, Section 15 of the 1987 Philippine Constitution provides:

Two months immediately before the next presidential elections and up to the end of his term, a President or Acting President shall not make appointments, except temporary appointments to executive positions when continued vacancies therein will prejudice public service or endanger public safety.

[16] Supra note 11.

[17] G.R. No. 163443, November 11, 2008.

[18] G.R. No. 160791, February 13, 2007, 515 SCRA 597, 601.

[19] In Sales, we found that there had not been proper publication of the vacancies, and there was no first level representative to the Personnel Selection Board, as required by existing laws and regulations.

[20] Section 261 of the Omnibus Election Code of the Philippines provides:

"x x x - The following shall be guilty of an election offense:

x x x x

(g) Appointment of new employees, creation of new position, promotion, or giving salary increases - During the period of forty five (45) days before regular election and thirty days before a special election (1) any head, official or appointing officer of a government office, agency or instrumentality, whether national or local, including government-owned or controlled corporations, who appoints or hires any new employee, whether provisional, temporary or casual, or creates and fills any new position, except upon prior authority of the Commission. The Commission shall not grant the authority sought unless, it is satisfied that the position to be filled is essential to the proper functioning of the office or agency concerned, and that the position shall not be filled in a manner that may influence the election.

As an exception to the foregoing provisions, a new employee may be appointed in case of urgent need; Provided, however, That notice of the appointment shall be given to the Commission within three days from the date of the appointment. Any appointment or hiring in violation of this provision shall be null and void.

COMELEC Resolution No. 3401, entitled Enforcement Of The Prohibition Against Appointment Or Hiring Of New Employees; Creation Or Filling Up Of New Positions, Giving Salary Increases; Transferring/Detailing Civil Service Employees; And Suspension Of Elective Local Officials In Connection With The May 14, 2001 Elections (15 December 2000), also prohibited appointments prior to the elections:

SECTION 1. Prohibited Acts -

x x x x

(b) Beginning March 30, 2001 until May 14, 2001, no head, official or appointing officer of any national or local government office, agency or instrumentally, including government owned or controlled corporation shall: (1) appoint or hire any new employee, whether permanent, provisional, temporary or casual; or (2) create and fill any

new positions, except upon prior authority of the Commission.

[21] Supra note 4.

[22] Supra note 18, at 603-604.

[23] The assumption date of the winning mayoralty candidate Mayor Perdices was on June 30, 2001.

[24] Sales, supra note 18; Mathay v. Civil Service Commission, G.R. No. 130214, August 9, 1999, 312 SCRA 91,102; Debulgado v. Civil Service Commission, G.R. No. 111471, September 26, 1994, 237 SCRA 184, 200.

[25] Mondragon Leisure and Resorts Corporation v. United Coconut Planters Bank, G.R. No. 154187, April 14, 2004, 427 SCRA 585, 590.

[26] Transfield Philippines, Inc. v. Luzon Hydro Corporation, G.R. No. 146717, May 19, 2006, 490 SCRA 14, 18; Roxas v. Court of Appeals, G.R. No. 139337, August 15, 2001, 363 SCRA 207, 217.

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