

**IA1 ERWIN L. MAGCAMIT, PETITIONER, VS. INTERNAL AFFAIRS SERVICE -PHILIPPINE DRUG ENFORCEMENT AGENCY, AS REPRESENTED BY SI V ROMEO M. ENRIQUEZ AND DIRECTOR GENERAL DIONISIO R. SA...**

*G.R. No. 198140. January 25, 2016*

Ponente: BRION, J.

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**BRION, J.:**

We resolve the petition for review on certiorari under Rule 45 of the Rules of Court[1] filed by IA1 Erwin L. Magcamit (Magcamit) from the March 17, 2011 decision[2] and the August 9, 2011 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 108281. The CA upheld the March 17, 2009 decision of the Civil Service Commission (CSC) denying Magcamit's appeal from the May 20, 2008 memorandum of the Internal Affairs Service of the Philippine Drug Enforcement Agency (IAS-PDEA), which found Magcamit guilty of grave misconduct and, consequently, recommending his dismissal from the service.

**THE FACTUAL ANTECEDENTS**

In a letter dated April 13, 2008, addressed to Director General Dionisio R. Santiago, a person named Delfin gave information about an alleged extortion done to his mother by Magcamit and other PDEA agents. The PDEA agents denied the irregularities imputed to them and maintained that the letter-complaint was made only to destroy their reputation.

On May 5, 2008, Magcamit and his co-agents, namely, IO3 Carlo Aldeon, IO2 Renato Infante, IO2 Ryan Alfaro, and IO2 Apolinario Mationg, Jr., were formally charged with Grave Misconduct for demanding and/or obtaining P200,000.00 from Luciana M. Jaen (Jaen) in exchange for her release after she was apprehended in a buy-bust operation in Lipa City. After they had submitted their Answer, their case was submitted for recommendation and action.

In a memorandum dated May 20, 2008, Special Investigator V Romeo M. Enriquez (SI V Enriquez) found Magcamit and his co-agents liable for grave misconduct and recommended that they be dismissed from the civil service. Accordingly, they were dismissed on June 5, 2008.

SI V Enriquez gave credence to Jaen's narration of events that when she sought help from the team leader of the buy-bust team, she was referred to SPO1 Peter Sistemio (SPO1 Sistemio) as the person who would facilitate her release; that SPO1 Sistemio bluntly demanded money in exchange; that she had initially offered P50,000.00 but SPO1 Sistemio rejected it outright; and that, eventually, they agreed on P200,000.00.

After the agreed monetary consideration was produced, the PDEA agents allegedly instructed Jaen's son, Delfin, to wait at the ATM machine outside PDEA. Jaen still remained in detention after a lapse of several hours.

The narration was reinforced by the sworn statements dated April 15, 2008 and April 17, 2008, of Compliance

Investigator I Dolorsindo M. Paner (CI Paner) who recalled that IO2 Renato Infante (IO2 Infante) told him to meet him at the office for an important matter about their operation; and that when IO2 Infante arrived, he handed the money to CI Paner who then counted it on the spot. This incident was allegedly captured by a surveillance camera.

On July 10, 2008, Magcamit filed his motion for reconsideration arguing that the IAS-PDEA committed errors of law and/or irregularities prejudicial to his interest; its decision, too, was not supported by the evidence on record.

Aside from the procedural lapses Magcamit claimed the IAS-PDEA had committed, he raised the fact that his name never came up in the sworn statements submitted to SI V Enriquez. Moreover, he argued that the application of the "doctrine of implied conspiracy" was misplaced because the evidence on record did not show any act showing that he participated in the alleged extortion.

On July 23, 2008, SI V Enriquez denied the motion for reconsideration of Magcamit and his co-agents as they had been duly afforded administrative due process and had been given a fair and reasonable opportunity to explain their side. He added that the absence of a preliminary investigation was not fatal to their case. Lastly, he maintained that direct proof is not necessary to establish conspiracy as long as it is shown that the parties demonstrate they concur with the criminal design and its objective.

Magcamit responded by filing a notice of appeal and elevating his case to the CSC.

In its March 17, 2009 decision, the CSC denied Magcamit's appeal and affirmed his dismissal from the civil service. It ruled that administrative tribunals exercising quasi-judicial powers - such as the IAS-PDEA - are unfettered by the rigidity of certain procedural requirements especially when due process has been fundamentally and essentially observed. It found that Magcamit was positively identified by CI Paner in his sworn statement as the person who identified the members of the group who received their respective shares from the ₱200,000.00, thus, establishing his participation in the extortion. The CSC noted that Magcamit failed to controvert this allegation against him.

Reiterating the grounds he relied upon in his appeal to the CSC, Magcamit filed a petition for review under Rule 43 with the CA, imputing error on the part of the CSC in affirming his dismissal from the service.

#### THE CA DECISION

In its March 17, 2011 decision, the CA denied the petition for review and upheld the March 17, 2009 CSC decision.

The CA held that the CSC, in investigating complaints against civil servants, is not bound by technical rules of procedure and evidence applicable in judicial proceedings; that rules of procedure are to be construed liberally to promote their objective and to assist the parties in obtaining a just, speedy, and inexpensive determination of their respective claims and defenses.

The CA found that the CSC correctly appreciated CI Paner's sworn statement which described Magcamit's link to the extortion. The CA said that apart from his bare and self-serving claim, Magcamit failed to show that CI Paner was actuated by ill motive or hate in imputing a serious offense to him.

On August 9, 2011, the CA denied Magcamit's motion for reconsideration; hence, the present petition for review on certiorari before this Court.

#### THE PETITION

Magcamit filed the present petition on the following grounds:

1. his right to due process was denied because gross irregularities attended the administrative investigation

conducted by the IAS-PDEA; and

2. the evidence on record does not support his dismissal.

Magcamit contends that the anonymous letter-complaint of a certain Delfin should not have been given due course as it was not corroborated by any documentary or direct evidence and there was no obvious truth to it. Worse, the letter-complaint had no narration of relevant and material facts showing the acts or omission allegedly committed by Magcamit and his co-agents. Further, the letter-complaint only referred to him as "Erwin" and did not specifically identify him.

Magcamit claims that he was deprived of his right to seek a formal investigation because the IAS-PDEA deliberately failed to inform him of this right.

Magcamit questions how the IAS-PDEA never presented him with pieces of evidence - specifically CI Paner's sworn statement - that were considered against him. He emphasizes that the CSC and the CA affirmed his dismissal based on an affidavit of complaint executed by CI Paner on May 7, 2008, that was only attached to the IAS-PDEA's comment before the CSC.

As to his alleged participation in the extortion, Magcamit alleges that he never had any discussion with CI Paner about each agent's share in the P200,000.00. He argues that he could not have refuted the allegation against him since he was not even aware of CI Paner's sworn statement until the case was brought up before the CSC.

Magcamit claims support for his case after the dismissal of the criminal complaint filed against him and his co-agents. In its June 18, 2010 resolution, the Quezon City Prosecutor's Office found the evidence against them insufficient to prove that they requested or received any money from Jaen.

Finally, Magcamit maintains that the purported surveillance video is inadmissible as evidence because it was not authenticated nor shown to him.

## OUR RULING

We GRANT the present petition because Magcamit's dismissal was unsupported by substantial evidence.

Although Magcamit assails that the letter-complaint should not have been entertained to begin with as it was not in accord with the Revised Rules on Administrative Cases in the Civil Service (RACCS),<sup>[4]</sup> we do not find any need to dwell on this point. The administrative complaint was initiated when Jaen and Delfin executed sworn statements and filed them with the IAS-PDEA. As the CA correctly pointed out, the letter-complaint did not, by itself, commence the administrative proceedings against Magcamit; it merely triggered a fact-finding investigation by the IAS-PDEA. Accordingly, these sworn statements - together with the letter-complaint - were used as pieces of evidence to build a prima facie case for extortion warranting a formal charge for grave misconduct.

Administrative determinations of contested cases are by their nature quasi-judicial; there is no requirement for strict adherence to technical rules that are observed in truly judicial proceedings.<sup>[5]</sup> As a rule, technical rules of procedure and evidence are relaxed in administrative proceedings in order "to assist the parties in obtaining just, speedy and inexpensive determination of their respective claims and defenses."<sup>[6]</sup> By relaxing technical rules, administrative agencies are, thus, given leeway in coming up with a decision.

Nonetheless, in deciding disciplinary cases pursuant to their quasi-judicial powers, administrative agencies must still comply with the fundamental principle of due process. Administrative tribunals exercising quasi-judicial powers are unfettered by the rigidity of certain procedural requirements, subject to the observance of fundamental and essential requirements of due process in justiciable cases presented before them.<sup>[7]</sup>

Due process in administrative cases, in essence, is simply an opportunity to explain one's side or to seek a reconsideration of the action or ruling. For as long as the parties were given fair and reasonable opportunity to be heard before judgment was rendered, the demands of due process were sufficiently met.[8]

The cardinal primary rights and principles in administrative proceedings that must be respected are those outlined in the landmark case of *Ang Tibay v. Court of Industrial Relations*,[9] quoted below:

- (1) The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof.
- (2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must consider the evidence presented.
- (3) While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support its decision. A decision with absolutely nothing to support it is a nullity, a place when directly attached.
- (4) Not only must there be some evidence to support a finding or conclusion, but the evidence must be substantial. "Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."
- (5) The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected.
- (6) The Court of Industrial Relations or any of its judges, therefore, must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision.
- (7) The Court of Industrial Relations should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decisions rendered. The performance of this duty is inseparable from the authority conferred upon it.

The first of the enumerated rights pertains to the substantive rights of a party at the hearing stage of the proceedings.[10]

The second, third, fourth, fifth, and sixth aspects of the *Ang Tibay* requirements are reinforcements of the right to a hearing and are the inviolable rights applicable at the deliberative stage, as the decision maker decides on the evidence presented during the hearing.[11] These standards set forth the guiding considerations in deliberating on the case and are the material and substantial components of decision making.[12]

Finally, the last requirement, relating to the form and substance of the decision of a quasi-judicial body, further complements the hearing and decision-making due process rights and is similar in substance to the constitutional requirement that a decision of a court must state distinctly the facts and the law upon which it is based.[13]

At the hearing stage, while *Magcamit* was never afforded a formal investigation, we have consistently ruled that there is no violation of procedural due process even if no formal or trial-type hearing was conducted, where the party was given a chance to explain his side of the controversy.

Before the IAS-PDEA, *Magcamit* had the opportunity to deny and controvert the complaint against him when he filed his reply to the letter-complaint and his answer to the formal charge. Dissatisfied with the IAS-PDEA's decision, he elevated his case to the CSC which likewise found him guilty of conspiring with his co-agents, rendering him liable for gross misconduct. From these developments, it can hardly be said that the IAS-PDEA and the CSC denied *Magcamit* his opportunity to be heard.

In addition, Magcamit was duly represented by counsel who could properly apprise him of what he is entitled to under law and jurisprudence. Thus, he cannot claim that he was deprived of his right to a formal hearing because the IAS-PDEA failed to inform him of such right.

With the issue on due process at the hearing stage resolved, we now move on to discuss the merits of the petition before us.

Claiming that he was not involved in the extortion, Magcamit argues that the CSC and the CA misappreciated the facts when they considered the affidavit of complaint CI Paner executed on May 7, 2008, as substantial evidence supporting the conclusion that he conspired with his co-agents. This issue involves a question of fact as there is need for a calibration of the evidence, considering mainly the credibility of witnesses and the existence and the relevancy of specific surrounding circumstances, their relation to one another and to the whole, and the probabilities of the situation.[14]

In cases brought before us via a petition for review on certiorari, we are limited to the review of errors of law.[15] We, however, may review the findings of fact when they fail to consider relevant facts that, if properly taken into account, would justify a different conclusion or when there is serious ground to believe that a possible miscarriage of justice would result.[16]

We recall that only the April 17, 2008 affidavit of Jaen and the April 17, 2008 affidavit of Delfin were attached to the formal charge for grave misconduct against Magcamit and four (4)[17] other members of the PDEA-Special Enforcement Service (SES). This formal charge required them to submit their respective position papers on the administrative charge. Notably, both affidavits never mentioned the name of Magcamit.

SI V Enriquez's memorandum/decision dated May 20, 2008 - which found Magcamit and his four co-accused guilty of grave misconduct, and recommended their dismissal from the service - relied on the affidavits of CI Paner dated April 15, 2008 and April 17, 2008, respectively, which it considered to have "reinforced the allegations" of Jaen and her son, Delfin. CI Paner's two affidavits were never shown to Magcamit. At any rate, CI Paner's two affidavits, like the affidavits of Jaen and Delfin, did not mention Magcamit.

Probably realizing that the April 17, 2008 affidavit of Jaen, the April 17, 2008 affidavit of Delfin, and the April 15, 2008 and April 17, 2008 affidavits of CI Paner did not mention the involvement of Magcamit in the extortion, the CSC's Resolution No. 090431 dated March 17, 2009, used as basis another affidavit of CI Paner (dated May 7, 2008) in affirming the May 20, 2008 decision of the IAS-PDEA. Curiously, the CSC termed this affidavit as CI Paner's 'original affidavit' although it was the third affidavit that CI Paner had executed.

The evidence on record shows that CI Paner executed three (3) affidavits with different dates,[18] relating to the manner the members of the PDEA-SES tried to give him a share of the P200,000.00 they extorted from Jaen. It must be noted, however, that it was only the Affidavit of Complaint dated May 7, 2008, that linked Magcamit to the scheme. Curiously, this affidavit was never mentioned, despite being a more complete narration of what transpired, in SI V Enriquez' recommendation dated May 20, 2008. In fact, the investigating officer referred only to the affidavits dated April 15, 2008 and April 17, 2008.[19]

Surprisingly, the CSC ruled that the statements of CI Paner in his May 7, 2008 affidavit "was never controverted by Magcamit" although the latter had not been furnished this document. It was only when Magcamit requested for certified true copies of the Comment and the other documents submitted by the IAS-PDEA to the CSC that he discovered the existence of Paner's May 7, 2008 affidavit.

As the CSC did, the CA ruled that Magcamit participated in the extortion on the basis of Paner's May 7, 2008 alone. Accordingly, it affirmed the CSC's resolution.

Under these circumstances, the CA erred in affirming the CSC's dismissal of the respondent on the basis of Paner's May 7, 2008 affidavit - a document that was not part of the proceedings before the IAS-PDEA.

Given how the evidence against him came out, we find that Magcamit could not have adequately and fully disputed the allegations against him since during the administrative investigation he was not properly apprised of all the evidence against him. We point out that Magcamit could not have refuted the May 7, 2008 affidavit of Paner, which was the sole basis of the CSC's and the CA's finding of Magcamit's liability; notably, the formal charge requiring him and his co-accused to file their position papers was dated May 5, 2008. Corollarily, Magcamit and his co-agents were not even furnished a copy of the affidavits of CI Paner dated April 15, 2008 and April 17, 2008 before the recommendation for dismissal came out. Magcamit was thus blindsided and forced to deal with pieces of evidence he did not even know existed.

Thus, the requirement that "[t]he decision must be rendered on the evidence presented at the hearing, or at least contained in the record AND disclosed to the parties affected," was not complied with. Magcamit was not properly apprised of the evidence presented against him, which evidence were eventually made the bases of the decision finding him guilty of grave misconduct and recommending his dismissal.

Although, in the past, we have held that the right to due process of a respondent in an administrative case is not violated if he filed a motion for reconsideration to refute the evidence against him, the present case should be carefully examined for purposes of the application of this rule. Here, the evidence of Magcamit's participation was made available to him only after he had elevated the case to the CSC. Prior to that, or when the IAS-PDEA came up with the decision finding him guilty of gross misconduct, there was no substantial evidence proving Magcamit was even involved.

We consider, too, that even if we take into account CI Paner's May 7, 2008 affidavit, we find this document to be inadequate to hold - even by standards of substantial evidence - that Magcamit participated in the PDEA's extortion activities.

We note that the CSC and the CA linked Magcamit to the alleged extortion in paragraph 13 of CI Paner's May 7, 2008 affidavit of complaint, which reads:

13. That pretending nothing had happened and yet projecting to the group that I am a bit apprehensive as to the evident inequality in the sharing of the extorted money from subject Jaen, I was able to talk with Agent Erwin Magcamit, one of the members of the arresting team, and asked the latter as to how the group came up with the Php21,500.00 sharing for each member out of the Php200,000.00; from which Agent Magcamit simply said to me that such was the sharing and everybody except me seemed to have consented; in addition thereto, Agent Magcamit vividly mentioned all other members who got their share of the Php21,500.00, namely, [1] Carlo S. Aldeon, [2] PO3 Emerson Adaviles, [3], PO2 Reywin Bariuad, [4] IO2 Renato Infante, [5] IO2 Apolinario Mationg, [6] IO2 Ryan Alfaro, and [7] PO3 Peter Sistemio.[20]

We discern no showing from this allegation that Magcamit extorted money from Jaen, or that he was among those who took part in the division of the money allegedly extorted from Jaen. For conspiracy to exist, it must be proven or at least inferred from the acts of the alleged perpetrator before, during, and after the commission of the crime. It cannot simply be surmised that conspiracy existed because Magcamit was part of the team that took part in the buy-bust operation which resulted in Jaen's arrest. In other words, respondents failed to pinpoint Magcamit's participation in the extortion that would make him administratively liable.

After evaluating the totality of evidence on record, we find that the records are bereft of substantial evidence to support the conclusion that Magcamit should be held administratively liable for grave misconduct; Magcamit was dismissed from the service based on evidence that had not been disclosed to him. By affirming this dismissal, the

CA committed a grave reversible error.

WHEREFORE, premises considered, we GRANT the present petition. The March 17, 2011 decision and the August 9, 2011 resolution of the Court of Appeals in CA-G.R. SP No. 108281 are hereby REVERSED and SET ASIDE. The Philippine Drug Enforcement Agency is ORDERED to reinstate IA1 Erwin L. Magcamit to his previous position without loss of seniority rights and with full payment of his salaries, backwages, and benefits from the time of his dismissal from the service up to his reinstatement.

**SO ORDERED.**

Carpio, (Chairperson), and Mendoza, JJ., concur.

Del Castillo, J., I join the dissent of J. Leonen.

Leonen, J., see dissenting opinion.

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[1] Rollo, pp. 3-17.

[2] Id. at 10-27; penned by Associate Justice Mariflor P. Punzalan Castillo, and concurred in by Associate Justice Josefina Guevara-Salonga and Associate Justice Franchito N. Diamante.

[3] Id. at 28-29.

[4] Rule 3, Section 10. "x x x No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment, x x x" [then CSC Resolution No. 99-1936, or the Uniform Rules on Administrative Cases in the Civil Service, Rule II, Section 8.]

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

[6] *Commissioner of Internal Revenue v. Hantex Trading Co., Inc.*, G.R. No. 136975, March 31, 2005, 454 SCRA 301; *Velasquez v. Hernandez*, G.R. No. 150732, August 31, 2004, 437 SCRA 357.

[7] *Police Commission v. Lood*, G.R. No. L-34637, February 24, 1984, 127 SCRA 757, 761, citing *Maribojoc v. Hon. Pastor de Guzman*, 109 Phil. 833 (1960).

[8] *Samalio v. Court of Appeals*, G.R. No. 140079, March 31, 2005, 454 SCRA 462, 471.

[8] *Ledesma v. Court of Appeals*, G.R. No. 166780, December 27, 2007, 541 SCRA 444, 452.

[9] 69 Phil. 635, 642-644 (1940).

[10] *Mendoza v. COMELEC*, G.R. No. 188308, October 15, 2009, 603 SCRA 692, 713.

[11] Id.

[12] Id.

[13] Id.

[14] *Imperial v. Jaucian*, G.R. No. 149004, April 14, 2004, 427 SCRA 517, 523-524.

[15] RULES OF COURT, Rule 45, Section 1.

[16] See *Office of the Ombudsman v. Reyes*, G.R. No. 170512, October 5, 2011, 658 SCRA 626. See also *Hon. Ombudsman Marcelo v. Bungubung*, 575 Phil. 538, 539 (2008).

[17] Namely, 103 Carlo Aldeon, IO2 Renato Infante, IO2 Ryan Alfaro, and 102 Apolinario Mationg, Jr., rollo,p. 132.

[18] Affidavit dated April 15, 2008, rollo, p. 145; Affidavit dated April 17, 2008, p. 146; Affidavit of Complaint dated May 7, 2008, pp. 174-175.

[19] Rollo, pp. 142-143.

[20] Id. at 175.

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## DISSENTING OPINION

**LEONEN, J.,:**

I respectfully dissent. There was substantial evidence to prove that Investigation Agent 1 Erwin L. Magcamit (IA1 Magcamit) shared in the money extorted from a detainee of the Philippine Drug Enforcement Agency (PDEA). IA1 Magcamit, therefore, was correctly dismissed from the service for grave misconduct.

### I

This is a Petition for Review on Certiorari[1] assailing the Court of Appeals Decision[2] and Resolution,[3] which denied the appeal of IA1 Magcamit. The Court of Appeals affirmed the Civil Service Commission Resolution dated March 17, 2009, which, in turn, affirmed the Memorandum[4] dated May 20, 2008 of the Internal Affairs Service of the PDEA.[5] The Internal Affairs Service found IA1 Magcamit guilty of grave misconduct and recommended his dismissal from the service.[6]

### II

Dionisio R. Santiago, Jr. (Director General Santiago), Former Director General of the PDEA, received a letter[7] from a certain "Delfin." According to Delfin, several PDEA agents assigned in the Special Enforcement Service were involved in corrupt activities. Among the PDEA agents named was "Erwin." [8] The Letter reads:

Dear Gen. Santiago [,]

Kagalanggalang na Heneral Santiago ng PDEA ako po ay sumulat sa inyo upang ipaalam ang mga katiwalian na ginagawa ng ilan ninyong mga ahente na nakakasira sa inyong ahensya dahil ako ay biktima at saksi sa mga illegal na Gawain ng inyong mga ahente at particular na naka assign sa S.E.S..

Ang mga sumusunod ay nakilala ko po sa pangalang Caloy, Ryan, Chito, Erwin, Alfaro, PO2 Bariuad, PO3 Peter, at isang Kalbong pulis na kaya kong kilalanin kung sila ay makakaharap ko ng personal.

Ako po ay patuloy na makikipag-ugnayan sa inyong ahensya sa pamamagitan ng pagtawag sa inyong telepono at handa rin akong harapin ang mga taong ito kung inyong mamarapatin upang sila ay aking maituro. Ako po ay patuloy na makikipagugnayan sa inyo hinggil sa usaping ito sa pamamagitan ng pagtawag ko sa inyo. Iiwanan kopo [sic] ang cell number ko, upang magpatuloy po an gating [sic] komunikasyon. Tatawag po ako sa inyong opisina April 24, 2008 sa eksaktong 11 am, itago niyo po ako sa pangalang Delfin.

Paki tago po ang cell number ko nasa hiwalay na papel na nito [sic].

Gumagalang,

Delfin[9]

On April 14, 2008, Director General Santiago ordered the Director of the Internal Affairs Service to "conduct [the] necessary investigation[.]"[10]

In the Memorandum[11] dated April 25, 2008, Special Investigator V Romeo M. Enriquez, Officer-in-Charge of the Internal Affairs Service, ordered the following PDEA agents to comment on Delfm's letter: IO3 Carlos S. Aldeon, PO3 Emerson Adaviles, PO2 Reywin Bariuad, IA1 Erwin L. Magcamit, 102 Renato R. Infante, 102 Apolinario Mationg, Jr.,[12] 102 Ryan C. Alfaro, and SPO1 Peter Sistemio. All the respondents belonged to the Special Enforcement Service.[13]

Like the other PDEA agents named in the Memorandum, IA1 Magcamit denied Delfm's accusation and maintained that all persons they had arrested for drug-related cases were charged in court. He and the other PDEA agents also referred to an instance when they filed a criminal complaint for bribery against those who attempted to bribe them in exchange for the release of a detainee.[14]

Nevertheless, IA1 Magcamit and four other members of the Special Enforcement Service were formally charged with grave misconduct.[15] IA1 Magcamit and his co-respondents allegedly demanded P200,000.00 from a certain Luciana M. Jaen (Jaen) in exchange for her release from detention.[16] The Formal Charge[17] dated May 5, 2008 reads:

"That on or about twelve o'clock in the evening of\$ day of April 2008, in the City of Lip a, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Agency, the above-named respondents, at night time, conspiring and confederating together and mutually helping one another, with intent to gain, with evident premeditation and malicious misrepresentation, did then and there, willfully and unlawfully demanded/obtained under duress upon one, LUCIANA M. JAEN, the amount of TWO HUNDRED THOUSAND PESOS [Php200,000.00], in exchange for her release after the latter was apprehended in a buy-bust operation conducted by the members of the Special Enforcement Service of the Philippine Drug Enforcement Agency. "

Acts contrary to law and existing rules and regulations.[18] (Emphasis in the original)

Attached to the Formal Charge were two affidavits both dated April 17, 2008. In her Affidavit,[19] Jaen alleged that she was arrested in a buy-bust operation on April 9, 2008 at about 6:00 p.m. While detained at the PDEA headquarters, she allegedly asked for help on how she could be released. IO3 Carlos S. Aldeon allegedly referred her to another PDEA agent who, in turn, allegedly assured her that he could help her through SPO1 Peter Sistemio. SPO1 Peter Sistemio then approached Jaen and bluntly asked how much she could pay for her release.[20]

Jaen and SPO1 Peter Sistemio eventually agreed on the amount of P200,000.00. Jaen was later instructed to have the money brought at about 3:00 a.m., and SPO1 Peter Sistemio allegedly received the money as agreed upon.[21]

The other affidavit attached to the Formal Charge was executed by Delfin Magcawas, Jr. (Magcawas, Jr.). Magcawas, Jr. is the son of Jaen[22] and appeared to be the same "Delfin" who wrote to Director General Santiago.

In his Affidavit,[23] Magcawas, Jr. alleged that his mother, Jaen, texted him at about 12:00 m.n. on April 10, 2008. Jaen ordered him to bring P200,000.00 to the PDEA headquarters.[24]

Magcawas, Jr. arrived at the PDEA and was allegedly escorted to the Special Enforcement Service office. There, a man asked his mother: "Kumpleto ba iyan?" Magcawas, Jr. then handed P200,000.00 to the man who turned out to be SPO1 Peter Sistemio. SPO1 Peter Sistemio then directed Magcawas, Jr. to wait for his mother at the nearby automated teller machine. His mother, however, never showed up.[25]

IA1 Magcamit and his co-respondents answered[26] the Formal Charge, "vehemently deny [ing]"[27] the allegations of Jaen and Magcawas, Jr. They maintained that Jaen and Magcawas, Jr. lied in their Affidavits.[28]

In its Memorandum[29] dated May 20, 2008, the Internal Affairs Service gave credence to the allegations of Jaen and Magcawas, Jr. and found "cogent reason to pursue [the] administrative complaint." [30] According to the Internal Affairs Service, the statements of Jaen and Magcawas, Jr. were corroborated by Compliance Investigator I Dolorsindo M. Paner (Compliance Investigator Paner), an employee of the PDEA.[31]

Compliance Investigator Paner, in the Affidavit[32] dated April 15, 2008, stated that he was among the PDEA agents who arrested Jaen in a buy-bust operation. He narrated that on April 10, 2008, Jaen complained to him that certain persons demanded P200,000.00 from her in exchange for her release. Compliance Investigator Paner informed his superior, the Director of the Compliance Service of the PDEA.[33]

Compliance Investigator Paner was on leave on April 11, 2008 when IO3 Carlos S. Aldeon allegedly called him on the phone and directed him to proceed to the office of the Special Enforcement Service. Compliance Investigator Paner, however, replied that he was out of the office. Nevertheless, IO3 Carlos S. Aldeon told him to drop by at 5:00 p.m.[34]

Compliance Investigator Paner added that IO2 Renato R. Infante texted him on the same day and told him to meet him later that day. Again, Compliance Investigator Paner replied that he was out of town and just told IO2 Renato R. Infante to meet him the following week.[35]

Compliance Investigator Paner supplemented his allegations in the Affidavit[36] dated April 17, 2008. According to Compliance Investigator Paner, IO2 Renato R. Infante approached him on April 16, 2008 at about 6:00 p.m. He told Compliance Investigator Paner to meet him at the Special Enforcement Service office at 7:00 p.m. to discuss an important matter.[37] "Sensing something wrong,"[38] Compliance Investigator Paner informed Major Ferdinand Marcelino (Director Marcelino), Director of the Special Enforcement Service, of his conversation with IO2 Renato R. Infante.[39] Compliance Investigator Paner and Director Marcelino then had a surveillance camera prepared to record the 7:00 p.m. meeting.[40]

At 7:15 p.m., Compliance Investigator Paner went to the office of the Special Enforcement Service. There, IO2 Renato R. Infante handed Compliance Investigator Paner money. This transaction was allegedly recorded by the surveillance camera. Compliance Investigator Paner then went to Director Marcelino to surrender the money.[41]

According to the Internal Affairs Service, the statements of Compliance Investigator Paner, Jaen, and Magcawas, Jr, as well as the surveillance footage, prove that respondents conspired to extort money from Jaen. The Internal Affairs Service, thus, found respondents guilty of grave misconduct and recommended their dismissal from the service.[42]

IA1 Magcamit moved for reconsideration[43] of the Internal Affairs Service's Memorandum dated May 20, 2008, raising the following grounds: (a) the letter-complaint of "Delfin" lacked the requirements under Rule II, Section 8(4)[44] of the Uniform Rules on Administrative Cases in the Civil Service (Civil Service Rules).[45] Specifically, it did not state the full name and address of the persons complained of and the material facts showing the acts or omissions assailed. Moreover, it had no certification of non-forum shopping attached to it; (b) the hearing officer did not conduct a preliminary investigation, in violation of Rule II, Section 14[46] of the Civil Service Rules;[47] (c) IA1 Magcamit was not furnished a copy of the surveillance camera footage as well as the Affidavits of Compliance Investigator Paner, in violation of his right to due process;[48] and (d) the finding of conspiracy was not supported by the evidence on record, as the Affidavits of Jaen, Magcawas, Jr., and Compliance Investigator Paner did not mention his name.[49]

In the Resolution[50] dated July 23, 2008, the Internal Affairs Service denied IAl Magcamit's Motion for Reconsideration. The Internal Affairs Service held that formal or trial-type hearings are not necessary in administrative cases; hence, the lack of preliminary investigation did not invalidate the proceedings before the Internal Affairs Service.[51]

It added that the essence of due process in administrative cases is the opportunity to be heard. There was no denial of due process because the Internal Affairs Service gave respondent police officers the opportunity to answer the Formal Charge.[52]

Lastly, the Internal Affairs Service held that direct evidence of conspiracy need not be presented. "Proof of the concerted action before, during and after the crime, which demonstrates [the respondents'] unity of design and objective is sufficient."[53]

IAl Magcamit filed an appeal[54] before the Civil Service Commission, reiterating the arguments he made in his Motion for Reconsideration before the Internal Affairs Service. The PDEA commented[55] on IAl Magcamit's Memorandum of Appeal.

In the Resolution dated March 17, 2009, the Civil Service Commission dismissed IAl Magcamit's appeal.[56] The Commission agreed with the Internal Affairs Service that IAl Magcamit was not denied due process considering that he was given several opportunities to refute the allegations against him.[57]

On the merits, the Commission held that there was substantial evidence to prove that IAl Magcamit was guilty of grave misconduct.[58] The Commission referred to the May 7, 2008 Affidavit executed by Compliance Investigator Paner where the latter identified IAl Magcamit as one of the agents who shared in the money extorted from Jaen.[59] In this new Affidavit, Compliance Investigator Paner allegedly asked IAl Magcamit how the sharing of the money was arrived at, to which IAl Magcamit allegedly replied that "such was the sharing and everybody . . . seemed to have consented."[60]

IAl Magcamit filed a Petition for Review[61] before the Court of Appeals. The Court of Appeals, however, dismissed IAl Magcamit's appeal in the Decision dated March 17, 2011. It affirmed the finding that IAl Magcamit shared in the extorted money; hence, IAl Magcamit was guilty of grave misconduct.[62]

IAl Magcamit filed a Motion for Reconsideration,[63] which the Court of Appeals denied in the Resolution dated August 9, 2011.

On September 29, 2011, IAl Magcamit filed his Petition for Review on Certiorari before this court. The Internal Affairs Service, through the Office of the Solicitor General, filed its Comment,[64] to which IAl Magcamit replied.[65]

The issues for the court's resolution are the following:

First, whether petitioner Investigation Agent 1 Erwin L. Magcamit was denied of his right to due process, rendering the proceedings before the Internal Affairs Service void; and

Second, whether there was substantial evidence to prove that petitioner shared in the money extorted from Luciana M. Jaen.

#### IV

Petitioner maintains that he was denied of his right to due process because the Internal Affairs Service failed to follow the procedure for administrative investigation under the Uniform Rules on Administrative Cases in the Civil Service. Specifically, the letter-complaint of "Delfin" did not allege his full name, address, position, and

office of employment; the letter-complaint did not narrate the relevant and material facts that would show the acts or omissions allegedly committed by him; the Internal Affairs Service did not conduct a preliminary investigation before it issued the Formal Charge; and he was allegedly not furnished copies of Compliance Investigator Paner's Affidavits.[66]

On the merits, petitioner maintains that the pieces of evidence presented in this case do not substantially prove that he shared in the money A extorted from Luciana M. Jaen.[67]

On the other hand, respondents argue that petitioner was not denied of his right to due process. They maintain that the essence of due process, as applied to administrative proceedings, is the opportunity to be heard. Several opportunities were afforded to petitioner: he was able to file a Comment on the letter-complaint; he answered the Formal Charge; he also filed a Motion for Reconsideration of the Memorandum dated May 20, 2008, which recommended his dismissal.[68]

Moreover, respondents argue that the evidence presented against petitioner sufficiently proved that he is guilty of grave misconduct and was, therefore, correctly dismissed from the service.[69]

## V

The ponencia granted IA1 Magcamit's Petition for Review on Certiorari "because [his] dismissal was unsupported by substantial evidence." [70]

On the issue of due process, the ponencia agreed with respondents that the essence of due process is the "chance to explain [one's] side of the controversy." [71] In this case, petitioner was able to deny and controvert the letter-complaint, the Formal Charge, and the Memorandum dated May 20, 2008 recommending his dismissal. Moreover, the ponencia ruled that formal or trial-type hearings are not required in administrative cases. There was, therefore, no denial of due process.[72]

However, the ponencia found that petitioner was not furnished a copy of the Affidavit dated May 7, 2008—the only affidavit among the three executed by Compliance Investigator Paner and the only one that specifically named petitioner as one of those who shared in the money extorted from Luciana M. Jaen.[73] The Affidavit dated May 7, 2008 was the basis of the Civil Service Commission to affirm the Internal Affairs Service's Memorandum dated May 20, 2008.[74]

As for the other pieces of evidence presented against petitioner, the ponencia pointed out that none of them specifically named petitioner; [75] hence, there was no substantial evidence to prove that he was involved in the extortion. Although petitioner was part of the buy-bust operation team that apprehended Luciana M. Jaen, the ponencia ruled that this in itself does not prove that petitioner shared in the money.[76]

## [VI]

I agree that petitioner was afforded his right to due process.

However, contrary to the finding of the ponencia, there was substantial evidence to prove that petitioner shared in the money extorted from Luciana M. Jaen. Petitioner should be held liable for grave misconduct and be dismissed from the service.

### VI.A.

In administrative proceedings, the requirement of due process is satisfied if the party has had the opportunity to be heard.[77] If the party has been given the right to controvert the allegations and evidence against him, as when the party is able to file a motion for reconsideration, there is no deprivation of due process.[78]

This court in *Ang Tibay v. Court of Industrial Relations*[79] laid down the cardinal rights in due process. In *Air Manila, Inc. v. Hon. Balatbat, et al*;"[80] due process requirements are satisfied if the following are met: (a) "the right to notice, be it actual or constructive, of the institution of the proceedings that may affect a person's legal rights;"[81] (b) "reasonable opportunity to appear and defend his rights, introduce witnesses and relevant evidence in his favor;"[82] (c) a tribunal so constituted as to give him reasonable assurance of honesty and impartiality, and one of competent jurisdiction;"[83] and (d) "a finding or decision by that tribunal supported by substantial evidence presented at the hearing, or at least contained in the records or disclosed to the parties affected."[84]

These requirements have been met in this case.

The Formal Charge dated May 9, 2008, with the Affidavits of Luciana M. Jaen and Delfm Magcawas, Jr. attached to it, notified petitioner of the institution of the administrative proceedings against him. The Internal Affairs Service afforded petitioner reasonable opportunity to defend his rights, as he was able to file an Answer to the Formal Charge as well as a Motion for Reconsideration of the Memorandum recommending his dismissal. The recommendation was made by the Internal Affairs Service, the office under the PDEA that has disciplining authority over petitioner.

### VI.B.

Even the fourth requisite, which petitioner argues was absent, has been met in this case.

Substantial evidence is "evidence [that] a reasonable mind might accept as adequate to support a conclusion." [85] The Civil Service Commission and the Court of Appeals correctly relied on the Affidavit [86] dated May 7, 2008 of Compliance Investigator Paner. This piece of evidence related how petitioner consented to the sharing of the P200,000.00 extorted from Luciana M. Jaen:

13. That pretending nothing had happened and yet projecting to the group that I am a bit apprehensive as to the evident inequality in the sharing of the extorted money from subject Jaen, I was able to talk with Agent Erwin Magcamit, one of the members of the arresting team, and asked the latter as to how the group came up with the Php21,500.00 sharing for each member out of the Php200,000.00; from which Agent Magcamit simply said to me that such was the sharing and everybody except me seemed to have consented; in addition thereto, Agent Magcamit vividly mentioned all other members who got their share of the Php21,500.00, namely, [1] Carlos S. Aldeon, [2] PO3 Emerson Adaviles, [3] PO2 Reywin Bariuad, [4] 102 Renato Infante, [5] IO2 Apolinario Mationg, [6] 102 Ryan C. Alfaro, and [7] PO3 Peter Sistemio.[87] (Emphasis supplied)

It is true that the Affidavit dated May 7, 2008 was considered on appeal before the Civil Service Commission. This Affidavit was not mentioned in the Memorandum recommending petitioner's dismissal. The Internal Affairs Service, in recommending petitioner's dismissal, referred to the April 15 and April 17, 2008 Affidavits of Compliance Investigator Paner.

Nevertheless, technical rules of procedure and evidence are not strictly applied in administrative cases.[88] In the National Labor Relations Commission, evidence introduced on appeal may still be considered so long as the adverse party is given the opportunity to rebut the evidence.[89] This rule should equally apply in this administrative case since it involves employment, albeit of a public officer.

Here, petitioner was able to refute the allegations made by Compliance Investigator Paner in his May 7, 2008 Affidavit. IA1 Magcamit said in his Petition for Review before the Court of Appeals:

5.23. The . . . uncorroborated allegations [of Compliance Investigator Paner in his May 7, 2008 Affidavit] are brazen fabrications and falsehoods made by a person with ulterior motives. Petitioner Magcamit never made such statements to CS1 Paner. He never mentioned to him anything about money nor any sharing of money.

CS1 Paner has maliciously and perjurally concocted stories. Whatever conversations Petitioner Magcamit had with CS1 Paner was common and casual, as his conversations with other PDEA employees, considering that they belonged to the same office.[90] (Underscoring in the original)

Petitioner reiterated this argument in his Motion for Reconsideration before the Court of Appeals.[91]

The May 7, 2008 Affidavit is substantial to prove that petitioner consented to and shared in the money extorted from Luciana M. Jaen. This constitutes grave misconduct punishable by dismissal from the service.[92] The Internal Affairs Service, the Civil Service Commission, and the Court of Appeals did not err in their respective Decisions.

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[1] Rollo, pp. 32-69.

[2] Id. at 72-89. The Decision was penned by Associate Justice Mariflor P. Punzalan-Castillo and was concurred in by Associate Justices Josefina Guevara-Salonga and Franchito N. Diamante of the Fourth Division.

[3] Id. at 90-91. The Resolution was penned by Associate Justice Mariflor P. Punzalan-Castillo and was concurred in by Associate Justices Josefina Guevara-Salonga and Franchito N. Diamante of the Fourth Division.

[4] Id. at 139-144. The Memorandum was penned by Special Investigator V Romeo M. Enriquez.

[5] Id. at 72, Court of Appeals Decision.

[6] Id. at 144, Internal Affairs Service Memorandum.

[7] Id. at 128.

[8] Id.

[9] Id.

[10] Id.

[11] Id. at 129.

[12] Id. Inadvertently referred to as "Ationg, Jr." in the Memorandum.

[13] Id. at 132, Internal Affairs Service's Formal Charge.

[14] Id. at 130, IA1 Erwin L. Magcamit's Comments on the Attached Letter Complaint.

[15] Id. at 132, Internal Affairs Service's Formal Charge. The other members were IO3 Aldeon, IO2 Infante, IO2 Alfaro, and IO2 Mationg, Jr.

[16] Id.

[17] Id.

[18] Id.

[19] Id. at 133.

[20] Id.

[21] Id.

[22] Id. at 134, Delfin Magcawas, Jr.'s Affidavit.

[23] Id.

[24] Id.

[25] Id.

[26] Id. at 135-136.

[27] Id. at 135.

[28] Id.

[29] Id. at 139-144.

[30] Id. at 141.

[31] Id. at 142-143.

[32] Id. at 145.

[33] Id.

[34] Id.

[35] Id.

[36] Id. at 146.

[37] Id.

[38] Id.

[39] Id.

[40] Id.

[41] Id.

[42] Id. at 143-144, Memorandum dated May 20, 2008.

[43] Id. at 147-151.

[44] Uniform Rules on Administrative Cases in the Civil Service, Rule II, sec. 8 provides:

Section 8. Complaint. — A complaint against a civil service official or employee shall not be given due course unless it is in writing and subscribed and sworn to by the complainant. However, in cases initiated by the proper disciplining authority, the complaint need not be under oath.

No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.

The complaint should be written in a clear, simple and concise language and in a systematic manner as to apprise the civil servant concerned of the nature and cause of the accusation against him and to enable him to intelligently prepare his defense or answer.

The complaint shall contain the following:

- full name and address of the complainant;

- full name and address of the person complained of as well as his position and office of employment;
- a narration of the relevant and material facts which shows the acts or omissions allegedly committed by the civil servant;
- certified true copies of documentary evidence and affidavits of his witnesses, if any; and
- certification or statement of non-forum shopping.

In the absence of any one of the aforementioned requirements, the complaint shall be dismissed.

[45] Rollo, pp. 148-149, IA1 Erwin L. Magcamit's Motion for Reconsideration before the Internal Affairs Service.

[46] Uniform Rules on Administrative Cases in the Civil Service, Rule II, sec. 14 provides:

Section 14. Investigation Report. — Within five (5) days from the termination of the preliminary investigation, the investigating officer shall submit the Investigation Report and the complete records of the case to the disciplining authority.

[47] Rollo, p. 149, IA1 Erwin L. Magcamit's Motion for Reconsideration before the Internal Affairs Service.

[48] Id. at 149-150.

[49] Id. at 150.

[50] Id. at 152-155.

[51] Id. at 153-154.

[52] Id.

[53] Id. at 155.

[54] Id. at 157-168.

[55] Id. at 170-173.

[56] Id. at 72, Court of Appeals Decision.

[57] Id. at 78.

[58] Id. at 79.

[59] Id.

[60] Id.

[61] Id. at 92-124.

[62] Id. at 87-88, Court of Appeals Decision.

[63] Id. at 190-204.

[64] Id. at 224-242.

[65] Id. at 245-251.

[66] Id. at 45-55, Petition for Review on Certiorari.

[67] Id. at 55-66.

[68] Id. at 229-235.

[69] Id. at 235-240.

[70] Ponencia, p. 5.

[71] Id at 7.

[72] Id.

[73] Id. at 8.

[74] Id.

[75] Id.

[76] Id. at 10.

[77] *Vivo v. Philippine Amusement and Gaming Corporation (PAGCOR)*, G.R. No. 187854, November 12, 2013, 709 SCRA 276, 281 [Per J. Bersamin, En Banc]; *Gannapao v. Civil Service Commission et al.*, 665 Phil. 60, 70 (2011) [Per J. Villarama, Jr., En Banc].

[78] Id.

[79] 69 Phil. 635 (1940) [Per J. Laurel, En Banc]. In *Ang Tibay*, this court summarized the fundamental requirements of administrative due process:

"(1) The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof....

(2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must consider the evidence presented....

(3) 'While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support its decision. A decision with absolutely nothing to support it is a nullity, a place when directly attached.' ...

(4) Not only must there be some evidence to support a finding or conclusion ... but the evidence must be 'substantial.' ...

(5) The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected....

(6) [The tribunal] must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision....

(7) [The tribunal] in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decisions rendered. The performance of this duty is inseparable from the authority conferred upon it." (Id. at 642-644)

[80] 148 Phil. 502 (1971) [Per J. J.B.L. Reyes, En Banc].

[81] Id. at 506.

[82] Id.

[83] Id.

[84] Id.

[85] *Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635, 642 (1940) [Per J. Laurel, En Banc], citing

Appalachian Electric Power v. National Labor Relations Board, 4 Cir., 93 F. 2d 985, 989; National Labor Relations Board v. Thompson Products, 6 Cir., 97 F. 2d 13, 15; Ballston-Stillwater Knitting Co. v. National Labor Relations Board, 2 Cir., 98 F. 2d 758, 760.

[86] Rollo, pp. 174-175.

[87] Id. at 175.

[88] Uniform Rules on Administrative Cases in the Civil Service, Rule 1, sec. 3.

[89] See Andaya v. National Labor Relations Commission, 502 Phil. 151, 158 (2005) [Per J. Panganiban, Third Division]. See also Philippine Telegraph and Telephone Corporation v. National Labor Relations Commission, 262 Phil. 491, 498-499 (1990) [Per J. Regalado, Second Division].

[90] Rollo, p. 112, IA1 Erwin L. Magcamit's Petition for Review before the Court of Appeals.

[91] Id. at 197, IA1 Erwin L. Magcamit's Motion for Reconsideration before the Court of Appeals.

[92] Uniform Rules on Administrative Cases in the Civil Service, Rule IV, sec. 52(A)(3).

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