

ABELARDO BUENO, PETITIONER-APPELLEE, VS. FRANCISCO G. CORDOBA, JR., RESPONDENT-APPELLANT.

G.R. No. 23932. April 27, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

A report dated March 21, 1963 to the Rice and Corn Administration General Manager from Josefita Asis-Villegas, RCA Incharge at Daet, Camarines Norte, ran in part as follows:

"I have the honor to make the following reports:

x x x x x

"2. Sometime about the middle of February, we received a notice of shipment of rice from Manila via MRR. Mr. Bueno, the warehouseman, authorized Mr. Crispiniano Tolentino, Sales Supervisor to take delivery from Sipocot MRR Station and to convoy the truck loaded with rice to Daet. I noticed that one truck did not carry a whole load so I inquired from one of the laborers why the load seem to be lacking. He told me that by order of Mr. Bueno, 20 bags were unloaded at the house of the trucking contractor by the name of Mr. Sancho Asis. Mr. Tolentino admitted unloading 20 bags at Mr. Asis' house. In order to verify I personally went to Mr. Asis and inquired. He admitted that 20 bags were unloaded in his house, and added further that this was the quantity he requested to buy for his laborers. I told him that the transaction was irregular, as we are not allowed to sell by the sack much less 20 sacks to anybody.

"By the above incident, there are violations made on our existing regulation like unauthorized issue of rice without the necessary papers like Official Receipt and Invoice, issue of rice to unauthorized person (not a retailer)."

The RCA General Manager filed on March 29, 1963 an administrative charge against Abelardo Bueno (Adm. Case No. 29-S-63), stating:

"As employee of the RCA in Daet, Camarines Norte, you are hereby charged of misconduct in office and violation of office rules and regulations in that on the middle part of February, 1963, you ordered 20 bags of RCA rice be unloaded in the house of certain Sancho Asis without supporting papers in form of official receipts and invoices."

Neither the report nor the charge was under oath.

RCA investigator Francisco G. Cordoba, Jr. was subsequently assigned to conduct the administrative investigation. Submitting to him a motion to dismiss, Bueno argued that pursuant to Section 32 of Republic Act 2260 the administrative investigation cannot proceed without a sworn complaint. Said motion was denied.

Pressing the same argument, Bueno filed in the Court of First Instance of Camarines Norte a petition for certiorari and prohibition with preliminary injunction against the RCA investigator. And after submission of the case upon the pleadings, said court rendered judgment on July 6, 1964 restraining the respondent from proceeding with the

investigation. Respondent has appealed to Us to raise questions of law.

The principal issue is whether petitioner's investigation is legal notwithstanding that no sworn complaint was filed against him.

The provision of Section 32, Republic Act 2260 - the Civil Service Act - relied upon by petitioner, states:

"Section 32. Disciplinary action. - No officer or employee in the civil service shall be removed or suspended except for cause as provided by law and after due process: x x x Provided, further, That no complaint against a civil service official or employee shall be given due course unless the same is in writing and subscribed and sworn to by the complainant: x x x"

And implementing said provision is Section 24 of Rule XVIII of the Civil Service, also invoked by petitioner, as follows:

"Sec. 24. Except as otherwise provided by law, administrative proceedings may be commenced against a subordinate officer or employee by the head of Department or agency concerned or upon complaint of any other person; Provided, That no complaint against a civil service official or employee shall be given due course unless the same is in writing and subscribed and sworn to by the complainant."

It can readily be seen from the foregoing that an administrative proceeding may be commenced in one of two ways: (1) upon a charge by the Department or Agency head; or (2) upon a complaint filed by any other person. Therefore, the aforementioned provision that no complaint shall be given due course unless under oath, pertains to administrative proceedings commenced by complaint. It does not apply to proceedings commenced by direct charge of the Department or Agency head, for in such event no complaint is required (*Bautista v. Negado*, L-14319, May 26, 1960).

The RCA General Manager is the Agency head of said office. The power to take disciplinary action against RCA employees lies in him (Sec. 4, RA 3452). From time to time he may receive reports from his subordinate officers on alleged irregularities by RCA employees, as part of the information regularly transmitted to him by said officers. Should he decide, upon the basis of such reports or otherwise, to file administrative charges himself, the law does not require of him what it requires of other persons who wish to institute administrative proceedings against the employees of his office: a sworn complaint.

The reasons for the difference are not hard to see. The position of responsibility which he occupies sufficiently warrants that his charges are worth investigating. And he acts in the performance of a function he has already sworn, upon assuming office, to faithfully discharge.

Regardless, therefore, of whether the report of Jose-fita Asis-Villegas is a complaint or not, the administrative proceedings not having been commenced thereby, its not being under oath is beside the point. Said proceedings being upon the instance of the RCA General Manager himself, a sworn complaint is not required under the law.

WHEREFORE, the judgment appealed from is hereby reversed and set aside and the petition filed below is dismissed. With costs against petitioner-appellee.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Zaldivar, Sanchez, and Castro, JJ., concur.

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