

MAYOR RHUSTOM L. DAGADAG, PETITIONER, VS. MICHAEL C. TONGNAWA AND ANTONIO GAMMOD, RESPONDENTS.

G.R. NOS. 161166-67. February 03, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-161166-67/>

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari[1] assailing the joint Decision[2] dated July 31, 2003 and Resolution dated December 10, 2003 of the Court of Appeals in CA-G.R. SP Nos. 54511 and 57315. The dispositive portion of the joint Decision reads:

“WHEREFORE, these consolidated Petitions for Review are hereby GRANTED. The assailed Resolutions dated October 21, 1997 and May 31, 1999 of the Civil Service Commission upholding Respondent’s [now petitioner Mayor Rhustom L. Dagadag] Order of Suspension dated June 29, 1999, and January 24, 2000 upholding Respondent’s Order of Separation, are hereby REVERSED AND SET ASIDE. Petitioners Michael C. Tongnawa and Antonio B. Gammod are hereby accordingly REINSTATED WITH CORRESPONDING BACKWAGES.

SO ORDERED.”[3]

Petitioner was formerly the mayor of the municipality of Tanudan, Province of Kalinga. Michael Tongnawa and Antonio Gammod, respondents, are the municipal engineer and municipal planning and development coordinator, respectively, of the said municipality.

On July 24, 1995, petitioner, while then the mayor of Tanudan, sent respondents a memorandum ordering them to explain within 72 hours why they should not be administratively sanctioned for acts unbecoming of public servants and failure to perform their duties. Respondents submitted to petitioner their respective explanations.

On August 1, 1995, petitioner issued Executive Order No. 95-002 creating a Municipal Grievance Committee to investigate the charges against respondents. Guilbert Dangpason, then the vice-mayor of Tanudan, was designated Chairman.

After investigation, the Committee found respondents liable for insubordination, non-performance of duties and absences without official leaves (AWOL).

On November 27, 1995, petitioner issued an order suspending respondents from their respective positions for two months or from December 1, 1995 to February 28, 1996.

Respondents then appealed to the Civil Service Commission (CSC) contending that their right to due process has been violated. On May 23, 1996, during the pendency of respondents’ appeal, petitioner issued an order dropping them from the roll of employees effective May 28, 1996 by reason of their unauthorized absences. Again, they appealed to the CSC.

On October 21, 1997, the CSC issued Resolution No. 974229 affirming petitioner’s order suspending respondents

from the service for two months. They moved for a reconsideration but was denied by the CSC on May 31, 1999, prompting them to file with the Court of Appeals a petition for review, docketed as CA-G.R. SP No. 54511.

Meanwhile, on June 29, 1999, the CSC issued Resolution No. 991136 affirming petitioner's order dropping respondents from the roll. When their motion for reconsideration was denied by the CSC, respondents filed with the Court of Appeals a petition for review, docketed as CA-G.R. SP 57315.

As mentioned earlier, the Court of Appeals, in its joint Decision in CA-G.R. SP Nos. 54511 and 57315, granted respondents' petitions for review, reversing the CSC challenged Resolutions and reinstating them to their respective positions and ordering the payment of their corresponding backwages.

In reversing the CSC, the Court of Appeals held:

"As a general rule, findings of the CSC are not disturbed on appeal, but if there are substantial facts which may alter the results of the case, this Court is tasked to evaluate and take them into consideration.

Petitioners (now respondents) ascribed irregularities in the conduct of the Grievance Committee hearing and submitted two Affidavits subscribed by one William Tumbali and by former Vice-Mayor Guilbert Dangpason, then chairman of the said Grievance Committee. Dangpason attested that while it is true that there was a meeting held, no investigation was actually conducted. The Petitioners maintained that they were not given an opportunity to explain their side and prove their defenses. They claimed that the minutes on which the suspension of the Petitioners was solely based do not state the true proceedings, therefore, depriving them of their right to be heard.

None other than the Chairman of the Grievance Committee, assigned to investigate the alleged negligence of the Petitioners, had renounced the contents of the minutes of the supposed investigation. Dangpason who 'wish(ed) to set the record straight...in fairness to all concerned' categorically declared that the Petitioners were not given an opportunity to defend themselves since there was no actual investigation conducted and even expressed his willingness 'to testify and confirm' his declarations just to ascertain the truth. These declarations of Dangpason and Tumbali were not denied by the Respondent. In the absence therefore of any showing of ill intent or bad faith on the part of Dangpason and Tumbali, their Affidavits are to be afforded great weight and credence.

In the light of this clear and convincing evidence, Petitioners were able to rebut or overcome the presumption of regularity in the conduct of the Grievance Committee hearing. Accordingly, the minutes cannot solely be the basis for Petitioners' suspension.

x x x

x x x, we find that the suspension of the Petitioners has no factual basis.

x x x

It must be emphasized that, in administrative proceedings, it is not the duty of Petitioners to disprove what the Respondent failed to prove. The Respondent must first affirmatively show rationally adequate evidence that Petitioners' suspension was for a justifiable cause. Petitioners' suspension was not justified and, therefore, illegal because Respondent failed to prove the allegations and accusations against the Petitioners.

The Petitioners likewise assailed the resolution of the CSC affirming Respondent's Order of Separation as having been done in violation of their right to due process.

x x x

The previous rule required that the absences of an officer or employee before he can be dropped from the roll must be 'for at least thirty (30) days without approved leave.' However, the above-quoted rule now provides

that the absences without authorized leave must be continuous, which means uninterrupted, or unbroken totaling at least 30 days. Clearly, the amendment is intended to make the requirement on absences ‘continuous’ and not just totaling ‘at least 30 days.’

Considering that statutes prescribing the grounds for the suspension or removal of an officer are penal in nature, the same should be strictly construed. Thus, where the law enumerates the grounds for disciplinary action, no other grounds may be invoked for his suspension or removal. Hence, although the unauthorized absences of Petitioners Tongnawa and Gammod totaled 41 and 43 days, respectively, it is clear from the records that the days when the Petitioners were absent, although more than 30 days, were not continuous as required by the law, but intermittent. Furthermore, there was no evidence, much less allegation, that the gap or break was a special or a regular holiday. Clearly, one of the requirements for the dropping from the rolls is not attendant. Hence, there was no valid termination of Petitioners’ services.

Inescapable then is the conclusion that since the Petitioners were illegally suspended and unjustifiably separated from their work, they are entitled to reinstatement and backwages.”

Petitioner filed a joint motion for reconsideration but was denied by the Court of Appeals.

Hence, the instant petition.

Basically, petitioner alleges that his “suspension and dismissal orders against the respondents are supported by substantial evidence.”[4] Moreover, the sworn declarations of William Tumbali and Guilbert Dangpason, the designated Chairman of the Municipal Grievance Committee, that there was actually no investigation conducted on petitioner’s charges, are “devoid of credibility.”[5]

In their joint comment, respondents aver that petitioner has no legal personality to file the instant petition because he had ceased to be the municipal mayor of Tanudan, Kalinga; and that the CSC, being the aggrieved party, is the proper party to file this petition.

The fundamental issue before us is: who may appeal from the Decision of the Court of Appeals?

In resolving the issue, the concept of “real party in interest” becomes relevant.

Section 2, Rule 3 of the 1997 Rules of Civil Procedure, as amended, provides:

“SEC. 2. Parties in interest. – A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.”

The established rule is that a real party in interest is one who would be benefited or injured by the judgment, or one entitled to the avails of the suit. The word “interest,” as contemplated by the Rules, means material interest or an interest in issue and to be affected by the judgment, as distinguished from mere interest in the question involved or a mere incidental interest. Stated differently, the rule refers to a real or present substantial interest as distinguished from a mere expectancy, or a future, contingent, subordinate, or consequential interest. As a general rule, one who has no right or interest to protect cannot invoke the jurisdiction of the court as party-plaintiff in an action.[6]

We hold that the CSC and the mayor of Tanudan are real parties in interest in this case and, therefore, can contest the assailed joint Decision of the Court of Appeals before us.

The CSC is the party adversely affected by the questioned Decision of the Court of Appeals because it has been mandated by the Constitution to preserve and safeguard the integrity of our civil service system.[7] Thus, any transgression by herein respondents of the CSC rules and regulations will adversely affect its integrity.

Significantly, it has not challenged the assailed Decision.

As regards the mayor of Tanudan, there are two (2) reasons why he may interpose such appeal. The first is rooted in his power to appoint officials and employees of his municipality.[8] Both respondents were appointed by petitioner during his incumbency. In *Francisco Abella, Jr. vs. Civil Service Commission*,^[9] the Court En Banc (through Justice Artemio V. Panganiban) held that the municipal mayor, being the appointing authority, is the real party in interest to challenge the CSC's disapproval of the appointment of his appointee, thus:

“x x x. The power of appointment necessarily entails the exercise of judgment and discretion (*Sevilla vs. Parina*, 128 Phil. 639, 643, October 30, 1967; *Manalang vs. Quitariano*, 94 Phil. 903, 911, April 30, 1954). *Luego vs. Civil Service Commission* (227 Phil. 303, August 5, 1986) declared:

‘Appointment is an essentially discretionary power and must be performed by the officer in which it is vested according to his best lights, the only condition being that the appointee should possess the qualifications required by law. If he does, then the appointment cannot be faulted on the ground that there are others better qualified who should have been preferred. This is a political question involving considerations of wisdom which only the appointing authority can decide’ (*Rimonte vs. Civil Service Commission*, 314 Phil. 421, 430, May 29, 1995).

Significantly, ‘the selection of the appointee – taking into account the totality of his qualifications, including those abstract qualities that define his personality – is the prerogative of the appointing authority (*Lapinid vs. Civil Service Commission*, 274 Phil. 381, 387, May 14, 1991, per Cruz J.; *Jimenez vs. Francisco*, 127 Phil. 1025, 1032, February 28, 1957; *Branganza vs. Commission on Elections*, 127 Phil. 442, 447, August 15, 1967). No tribunal, not even this Court (*Lapinid vs. Civil Service Commission*, *supra*; *Amponin vs. Commission on Elections*, 128 Phil. 412, 415, September 29, 1967), may compel the exercise of an appointment for a favored person (*Sevilla vs. Patrina*, *supra*; *Manalang vs. Quitariano*, *supra*; *Torio vs. Civil Service Commission*, 209 SCRA 677, 691, June 9, 1992; *Medalla vs. Sto. Tomas*, 208 SCRA 351, 357, May 5, 1992).

The CSC's disapproval of an appointment is a challenge to the exercise of the appointing authority's discretion. The appointing authority must have the right to contest the disapproval. Thus, Section 2 of Rule VI of CSC Memorandum Circular 40, s. 1998 is justified insofar as it allows the appointing authority to request reconsideration or appeal.

In *Central Bank vs. Civil Service Commission* (171 SCRA 744, 756, April 10, 1989), this Court has affirmed that the appointing authority stands to be adversely affected when the CSC disapproves an appointment. Thus, the said authority can ‘defend its appointment since it knows the reasons for the same’ (*id.*, p. 757, per Gancayco, J.). It is also the act of the appointing authority that is being questioned when an appointment is disapproved (*id.*).

x x x.” (underscoring ours)

Similarly, where a municipal mayor orders the suspension or dismissal of a municipal employee on grounds he believes to be proper, but his order is reversed or nullified by the CSC or the Court of Appeals (as in this case), he has the right to contest such adverse ruling. His right to appeal flows from the fact that his power to appoint carries with it the power to remove. Being chief executive of the municipality, he possesses this disciplinary power over appointive municipal officials and employees.^[10] To be sure, whenever his order imposing administrative sanctions upon erring municipal personnel is challenged, he should be allowed to defend his action considering that he is the appointing authority.

The second reason why the municipal mayor of Tanudan has legal personality to challenge the Decision of the Court of Appeals is because the salaries of the respondents, being municipal officials, are drawn from the municipal funds. Obviously, the mayor has real and substantial interest in the outcome of the administrative cases

against respondents.

Admittedly, however, petitioner, at the time he filed with this Court the instant petition assailing the Appellate Court Decision, was no longer the mayor of Tanudan.

Section 17, Rule 3 of the 1997 Rules of Civil Procedure, as amended, is relevant, thus:

“Sec. 17. Death or separation of a party who is a public officer. – When a public officer is a party in an action in his official capacity and during its pendency dies, resigns or otherwise ceases to hold office, the action may be continued and maintained by or against his successor if, within thirty (30) days after the successor takes office or such time as may be granted by the court, it is satisfactorily shown to the court by any party that there is a substantial need for continuing or maintaining it and that the successor adopts or continues or threatens to adopt or continue the action of his predecessor. Before a substitution is made, the party or officer to be affected, unless expressly assenting thereto, shall be given reasonable notice of the application therefor and accorded an opportunity to be heard.” (underscoring ours)

Interpreting the above rule, in *Miranda vs. Carreon*,^[11] *Heirs of Mayor Nemencio Galvez vs. Court of Appeals*,^[12] and *Roque, et al. vs. Delgado, et al.*,^[13] we held that where the petitioner (a public officer) ceases to be mayor, the appeal and/or action he initiated may be continued and maintained by his successor if there is substantial need to do so. If the successor failed to pursue the appeal and/or action, the same should be dismissed.

Records show that upon petitioner’s cessation from public office, his successor did not file any manifestation to the effect that he is continuing and maintaining this appeal.

We thus agree with the respondents that petitioner has lost his legal personality to interpose the instant petition.

WHEREFORE, the instant petition is hereby DENIED. Costs against petitioner.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario and Garcia, JJ., concur.

[1] Filed under Rule 45 of the 1997 Rules of Civil Procedure, as amended.

[2] Rollo at 26-37. Penned by Justice Noel G. Tijam and concurred in by Justice Portia Aliño-Hormachuelos and Justice Edgardo P. Cruz.

[3] Rollo at 36.

[4] Petition, Rollo at 23.

[5] Id. at 18.

[6] *Francisco Abella, Jr. vs. Civil Service Commission*, G.R. No. 152574, November 17, 2004.

[7] See *Civil Service Commission vs. Dacoycoy*, G. R. No. 135805, April 29, 1999, 306 SCRA 405; cited in *Francisco Abella, Jr. vs. Civil Service Commission*, *supra*.

[8] Section 444, paragraphs (a), (b) (1) (v), Article I, Chapter III, Title III, Book I of Republic Act No. 7160 (The Local Government Code of 1991) provides:

“SECTION 444. The Chief Executive: Powers, Duties, Functions and Compensation. – (a) The municipal mayor, as the chief executive of the municipal government, shall exercise such powers and perform such duties and

functions as provided by this Code and other laws.

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the municipal mayor shall:

(1) x x x:

(i) x x x;

(v) Appoint all officials and employees whose salaries and wages are wholly or mainly paid out of municipal funds and whose appointments are not otherwise provided for in this Code, as well as those he may be authorized by law to appoint;

x x x.”

[9] Supra.

[10] Section 87, Title III, Book I of Republic Act No. 7160 provides:

“SECTION 87. Disciplinary Jurisdiction. – Except as otherwise provided by law, the local chief executive may impose the penalty of removal from service, demotion in rank, suspension for not more than one (1) year without pay, fine in an amount not exceeding six (6) months’ salary, or reprimand and otherwise discipline subordinate officials and employees under his jurisdiction. x x x.”

Section 444, paragraphs (a), (b) (x), Article I, Chapter III, Title III, Book I of Republic Act No. 7160 also provides that the mayor shall “Ensure that all executive officials and employees of the municipality faithfully discharge their duties and functions as provided by law and this Code, and cause to be instituted administrative or judicial proceedings against any official or employee of the municipality who may have committed an offense in the performance of his official duties.”

[11] G.R. No. 143540, April 11, 2003.

[12] G.R. No. 119193, March 29, 1996, 255 SCRA 672.

[13] No. L-6770, August 31, 1954, 95 Phil. 723.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.