

# FIRST DIVISION

[ G.R. No. 223449, November 10, 2020 ]

**MINA C. NACILLA AND THE LATE ROBERTO\* C. JACOBÉ,  
REPRESENTED HEREIN BY HIS HEIR AND WIDOW, NORMITA  
JACOBÉ, PETITIONERS, VS. MOVIE AND TELEVISION REVIEW AND  
CLASSIFICATION BOARD, RESPONDENT.**

## DECISION

### CAGUIOA, J:

Before the Court is a petition for review on *certiorari*<sup>[1]</sup> (Petition) under Rule 45 of the Rules of Court assailing the Decision<sup>[2]</sup> dated November 3, 2015 and Resolution<sup>[3]</sup> dated March 8, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 135862, which agreed with the Civil Service Commission (CSC) that petitioners failed to timely appeal the Decision<sup>[4]</sup> dated April 8, 2008 of respondent Movie and Television Review and Classification Board's (MTRCB) Adjudication Committee directing their dismissal from service.

### *Facts*

Petitioners Mina C. Nacilla (Nacilla) and Roberto C. Jacobé (Jacobé) were former employees of the MTRCB.<sup>[5]</sup> Nacilla held the position of Administrative Officer V with Salary Grade (SG) 18 while Jacobé, who passed away on May 21, 2011, was formerly employed as Secretary I or Administrative Assistant I with SG 7.<sup>[6]</sup>

The controversy arose from a Collective Negotiation Agreement (CNA) which the MTRCB and the MTRCB Employees Association (MTRCBEA) executed on October 29, 2004 (2004 CNA), which covered the period from October 29, 2004 until October 29, 2007.<sup>[7]</sup> It appears that Jacobé was assigned to register the 2004 CNA with the CSC and for which he brought copies to the CSC Personnel Relations Office (CSC-PRO).<sup>[8]</sup> He was, however, informed that the 2004 CNA could not be registered because it was not properly ratified by the MTRCBEA and was not submitted for registration within 30 days from its execution. CSC-PRO advised Jacobé to cause the signing of the 2004 CNA anew, post a copy in conspicuous places for at least seven days and ratify it again before re-submitting it to the CSC-PRO for registration.<sup>[9]</sup>

Following the CSC-PRO, Jacobé printed four copies of the 2004 CNA and asked the then MTRCB Chairperson Ma. Consoliza P. Laguardia (Laguardia) to sign on the reprinted copies on December 1, 2005. Jacobé explained to Laguardia that she needed to re-sign the 2004 CNA so it could be registered with the CSC.<sup>[10]</sup> Jacobé then wrote "December 1, 2005" on the documents, the date Laguardia actually re-signed the re-printed 2004 CNA (2005 CNA).<sup>[11]</sup> Except for the date indicating it was re-signed, all other provisions of the 2005 CNA were the same as the 2004 CNA.<sup>[12]</sup>

Jacobé then executed an Affidavit dated January 3, 2006 which affirmed that a copy of

the 2005 CNA was posted in two conspicuous places at the MTRCB's premises, and thereafter it was ratified by the MTRCBEA anew on December 8, 2005 after the MTRCBEA was informed by petitioners of the circumstances surrounding the registration of the 2004 CNA. Eventually, the CSC issued a Certificate of Registration of the 2005 CNA and provided therein that it would be effective from December 1, 2005 to December 1, 2008."<sup>[13]</sup>

On October 1, 2007, since the 2004 CNA was about to expire, a CNA Committee was formed to convene with the officials and representatives of the MTRCBEA in order to frame a new CNA.<sup>[14]</sup> During the meeting, Nacilla, as President of the MTRCBEA, informed the CNA Committee that it was not yet necessary to negotiate a new CNA since the 2005 CNA registered with the CSC was effective until December 1, 2008.<sup>[15]</sup>

As a result of this information, Laguardia called for an investigation of the matter. As the MTRCB Chairperson, she created an Investigating Committee to look into the alleged falsification of official documents and to recommend the appropriate action.<sup>[16]</sup> The Investigating Committee released its Report and Recommendation dated December 4, 2007 where petitioners were found to be responsible for the falsification of the 2005 CNA or at least making it appear as a new CNA covering a different period in order to secure benefits from the MTRCB.<sup>[17]</sup>

Laguardia then formally charged petitioners for violating civil service rules on dishonesty, grave misconduct and falsification of official documents under Section 52(A) 1, 3 and 6 of the Uniform Rules on Administrative Cases in the Civil Service through a Formal Charge dated December 4, 2007, which was amended on December 14, 2007.<sup>[18]</sup> Laguardia also designated three members of the MTRCB to comprise the Adjudication Committee that would hear the administrative case.<sup>[19]</sup> She also submitted an Affidavit dated January 8, 2008 to support the Formal Charge.<sup>[20]</sup>

Petitioners both executed their respective Affidavits dated March 13, 2008 which served as their direct examination before the Adjudication Committee. They were likewise given written cross-examination questions, and they responded with Verified Replies.<sup>[21]</sup>

While the administrative proceedings were pending, the Adjudication Committee issued an Order dated January 8, 2008 directing the preventive suspension of petitioners.<sup>[22]</sup> Eventually, the Adjudication Committee rendered a Decision dated April 8, 2008, finding petitioners guilty of dishonesty and falsification of public document and imposed the penalty of dismissal from service.<sup>[23]</sup>

The Adjudication Committee found that petitioners falsified the CNA by altering the dates and that they collaborated with a single objective to register the 2005 CNA with the CSC. They even used the altered dates to justify the deferment of the renewal or renegotiation of the 2004 CNA. The committee also found that petitioners admitted to the authorship of the 2005 CNA and that they participated in the making, preparing, and intervening in the simulation and registration of the 2005 CNA. They did not even deny reprinting the CNA, securing the signatures, and adding the date "01 December 2005" on the document.<sup>[24]</sup>

Petitioners moved for reconsideration and questioned the power and authority of the Adjudication Committee to impose the penalty of dismissal, but the committee denied

this. It ruled that it acted and decided pursuant to the authority of the MTRCB and that requiring the entire Board to decide the case lacked statutory basis.<sup>[25]</sup> The committee also ruled that its decision was based on evidence on record, including petitioners' own evidence, which show that they violated civil service rules.<sup>[26]</sup> The committee likewise denied the motion to lift their preventive suspension to preclude the possibility of imposing undue influence on the witnesses.<sup>[27]</sup>

Petitioners appealed on June 18, 2008 to the Office of the President (OP), which issued an Order dated July 15, 2008 stating that without necessarily giving due course to the appeal, petitioners were directed to pay the appeal fee and submit pertinent documents.<sup>[28]</sup> After five years, the OP promulgated its Decision on October 23, 2013 dismissing the appeal for lack of jurisdiction over administrative cases of government officials and employees who are not presidential appointees. The OP ruled that the CSC had jurisdiction following Presidential Decree (P.D.) No. 1986<sup>[29]</sup> or the MTRCB Charter and that since appeal is a statutory privilege based on law, petitioners must show a statutory basis for their appeal to the OP. They failed to do this.<sup>[30]</sup>

Following this, petitioners appealed to the CSC on November 25, 2013.<sup>[31]</sup> The CSC, without delving into the merits, dismissed the appeal for being filed out of time.<sup>[32]</sup> Petitioners then filed an appeal before the CA.

In the assailed Decision, the CA affirmed the CSC. Similarly, without delving into the merits, the CA ruled that the appeal with the CSC was filed out of time. The dispositive portion of the CA Decision states:

**WHEREFORE**, in view of the foregoing premises, the petition filed in this case is hereby **DENIED**. The assailed *Decision* dated May 30, 2014 of the Civil Service Commission in Case No. 140420 is hereby **AFFIRMED**.

**SO ORDERED.**<sup>[33]</sup>

Petitioners filed a motion for reconsideration, but this was denied.

Hence, this Petition.

The MTRCB filed its Comment<sup>[34]</sup> and petitioners also filed their Reply.<sup>[35]</sup>

### ***Issues***

Petitioners raised the following issues:

THE COURT OF APPEALS ERRED IN RULING THAT THE ADJUDICATION COMMITTEE HAD THE POWER OR AUTHORITY TO ORDER THE DISMISSAL OF PETITIONERS.

THE COURT OF APPEALS ERRED IN FINDING THAT THE PETITIONERS LOST THEIR RIGHT TO APPEAL TO THE CSC WHEN THEY WRONGFULLY FILED IT WITH THE OFFICE OF THE PRESIDENT.<sup>[36]</sup>

### ***The Court's Ruling***

The Petition lacks merit.

***The Adjudication Committee had the power to dismiss petitioners.***

Petitioners argue that the Adjudication Committee that Laguardia created had no power or authority to order their dismissal.<sup>[37]</sup> For petitioners, it is only the entire Board that has the power to suspend or dismiss any employee for cause.<sup>[38]</sup> This is error.

Section 16 of the MTRCB Charter provides that the MTRCB "shall have the power to suspend or dismiss for cause any employee and/or approve or disapprove the appointment, transfer or detail of employees." Further, Section 3(j) of P.D. No. 1986 states that the Board can "prescribe the internal and operational procedures for the exercise of its powers and functions as well as the performance of its duties and responsibilities, including the creation and vesting of authority upon sub-committees of the BOARD for the work of review and other related matters." The MTRCB was likewise authorized to promulgate rules and regulations for the implementation of P.D. No. 1986 and its purposes and objectives.<sup>[39]</sup>

Further, Section 40 of the 1998 MTRCB Implementing Rules and Regulations<sup>[40]</sup> (IRR) allowed the creation of a Hearing and Adjudication Committee composed of three members of the Board to be designated by the Chairperson to hear and decide cases involving violations of the MTRCB Charter and its IRR.<sup>[41]</sup>

Thus, following Section 3(j) of the MTRCB Charter allowing the Board to create sub-committees for the work of review and other related matters, and Section 40 of the 1998 MTRCB IRR where the Chairperson may designate the three members of the Hearing and Adjudication Committee, the Board issued the MTRCB Rules of Procedure on May 11, 1999.<sup>[42]</sup> The Rules of Procedure was made applicable to any administrative complaint filed with the MTRCB for violation of the MTRCB Charter and its IRR.<sup>[43]</sup> The Rules of Procedure likewise defined "Board" as the MTRCB, or the Chairman of the Board, or the Hearing and Adjudication Committee, acting for and in behalf of the Board.<sup>[44]</sup>

Here, it is beyond dispute that the MTRCB Chairperson created the Adjudication Committee and designated three members of the Board as members of the committee.

Admittedly, the MTRCB Rules of Procedure was applicable to complaints for violations of the MTRCB Charter and its IRR, and there was no indication therein that it was applicable to disciplinary cases involving the MTRCB's employees. Nonetheless, to the mind of the Court, the steps followed by the MTRCB and its Chairperson, which mirrored steps followed for the adjudication of cases for violations of the MTRCB Charter and its IRR, were all in accord with the broad powers granted to the MTRCB and to its Chairperson.

The MTRCB, given the considerable number of movies and television shows, among others, that it has to review, and the cases it has to hear for violations of its charter, had divided the work amongst themselves by creating adjudication committees, with the designation of members being given to the Board's Chairperson. This procedure was followed in hearing an administrative case against its employees.

In *Realty Exchange Venture Corp. v. Sendino*,<sup>[45]</sup> a similar issue was raised as petitioner therein questioned whether the decision rendered by the Office of Appeals,

Adjudication and Legal Affairs (OAALA) of the Housing and Land Use Regulatory Board (HLURB) was valid when it was not rendered by the HLURB *en banc*. The Court held:

Going to petitioners' contention that the decision of the OAALA should have been rendered by the Board of Commissioners sitting *en banc*, we find ample authority — both in the statutes and in jurisprudence — justifying the Board's act of dividing itself into divisions of three. Under Section 5 of E.O. 648 which defines the powers and duties of the Commission, the Board is specifically mandated to "(a)adopt rules of procedure for the conduct of its business" and "[...]perform such functions necessary for the effective accomplishment of (its) above mentioned functions." Since nothing in the provisions of either E.O. 90 or E.O. 648 denies or withholds the power or authority to delegate adjudicatory functions to a division, we cannot see how the Board, for the purpose of effectively carrying out its administrative responsibilities and quasi-judicial powers as a regulatory body should be denied the power, as a matter of practical administrative procedure, to constitute its adjudicatory boards into various divisions. After all, the power conferred upon an administrative agency to issue rules and regulations necessary to carry out its functions has been held "to be an adequate source of authority to delegate a particular function, unless by express provision of the Act or by implication it has been withheld." The practical necessity of establishing a procedure whereby cases are decided by three (3) Commissioners furthermore assumes greater significance when one notes that the HLURB, as constituted, only has four (4) full time commissioners and five (5) part time commissioners to deal with all the functions, administrative, adjudicatory, or otherwise, entrusted to it. As the Office of the President noted in its February 26, 1993 Resolution denying petitioners' Motion for Reconsideration, "it is impossible and very impractical to gather the four (4) full time and five (5) part time commissioners (together) just to decide a case." Considering that its part time commissioners act merely in an *ex-officio* capacity, requiring a majority of the Board to sit *en banc* on each and every case brought before it would result in an administrative nightmare.<sup>[46]</sup>

The same can be said about the MTRCB, which is composed of 32 members, including its Chairperson and its Vice-Chairperson. As shown by the provisions quoted from the MTRCB's Charter, the MTRCB is empowered to create sub-committees to exercise the power granted to the Board. There is nothing in its charter that requires that decisions be made *en banc* when what is involved is a disciplinary proceeding involving its employees. Thus, the MTRCB was correct when it argued that the Adjudication Committee that directed petitioners' dismissal was no different from any of its other committees. It is a committee exercising the Board's disciplinary power in a manner allowed by its Charter, by acting through a sub-committee of the Board.<sup>[47]</sup>

Further, to require that the MTRCB decide disciplinary proceedings *en banc* would indeed result in a logistical and administrative nightmare. As the Board itself argued in its Comment:

x x x If only the Board *en banc* can discharge the power to suspend and dismiss an MTRCB employee, as suggested by petitioners, then x x x all the thirty (30) members, the Chairperson, and the Vice Chairperson should convene in order to constitute an investigating body and then again convene to constitute an adjudicative body so that it could discipline its employees. To follow this proposition from the petitioners would result in an irrational