

## SECOND DIVISION

[ G.R. No. 203657, July 11, 2016 ]

**AILEEN ANGELA S. ALFORNON, PETITIONER, VS. RODULFO DELOS SANTOS AND ESEL A. GALEOS, RESPONDENTS.**

### D E C I S I O N

#### **BRION, J.:**

Assailed in this petition for review on *certiorari* under Rule 45 of the Rules of Court<sup>[1]</sup> are the **February 29, 2012** decision<sup>[2]</sup> and the **September 5, 2012** resolution<sup>[3]</sup> of the Court of Appeals (CA) in **CA-G.R. SP No. 05722**.

The CA found petitioner Aileen Angela S. Alfornon (*Alfornon*) guilty of serious dishonesty and upheld her dismissal from the service, with forfeiture of retirement benefit except for accrued leave credits, and perpetual disqualification for reemployment in government service.

#### **The Facts**

In November 2003, Alfornon worked as a casual employee for the Municipality of Argao, Cebu. She eventually became a permanent employee on February 16, 2007, as an Administrative Aide IV.

Alfornon filled-up, and submitted, a Personal Data Sheet (*PDS*) as one of the documents required to become a permanent government employee. When confronted with the question: "Have you ever been formally charged?", she answered "NO" despite remembering that she was previously charged with the crime of estafa before the Regional Trial Court (*RTC*) in Lapu-Lapu City, Cebu. According to her, she was advised by her co-employees that it did not matter if she denied having a case against her because the case was dismissed before she even entered government service.

On September 25, 2009, respondent Edsel A. *Galeos*, the Municipal Mayor of Argao, issued Memorandum Order No. 2009-23 informing Alfornon that a copy of her warrant of arrest in the estafa case had been forwarded to his office pursuant to an investigation conducted by Mrs. Socorro Seares.<sup>[4]</sup> Alfornon was required to show cause within twenty-four (24) hours from receipt of the memorandum why she should not be dismissed from the service."<sup>[5]</sup>

In her letter to Galeos,<sup>[6]</sup> Alfornon explained that it was never her intention to make any material misrepresentation in her PDS. She alleged that the question was confusing as it connotes a legal question as to when a person is considered to have been formally charged. She sought the Municipal Mayor's pardon saying that she believed she was not formally charged because she was never convicted of the

charge. In fact, she claimed that she never received the warrant of arrest because the case was subsequently dismissed by the RTC on July 25, 2002.<sup>[7]</sup>

On October 8, 2009, respondent Rodolfo Delos Santos (*Delos Santos*), a security aide in the Office of the Municipal Mayor of Argao, executed an affidavit formally charging Alfornon of Serious Dishonesty. The following day, Galeos forwarded the affidavit to the LGU-Argao Fact-Finding Committee.

On October 20, 2009, Alfornon was required to submit to the LGU- Argao Fact-Finding Committee, within three (3) days from receipt of the subpoena, her counter-affidavit and all other documentary evidence supporting her case.<sup>[8]</sup> Alfornon duly complied.

After Delos Santos filed his reply-affidavit, Alfornon, in turn, filed her rejoinder-affidavit.

On November 25, 2009, after considering the affidavits and documents filed, the LGU-Argao Fact-Finding Committee issued a report recommending that Alfornon be dismissed from the service.<sup>[9]</sup>

The committee believed that Alfornon's answer was motivated by malice, bad faith, and the deliberate intent to mislead her employer who was then entertaining other applicants for the position.

On December 14, 2009, pursuant to the recommendation submitted before him, Galeos ordered Alfornon's dismissal from the service.<sup>[10]</sup>

Aggrieved, Alfornon appealed before the Civil Service Commission (CSC).<sup>[11]</sup>

### **Ruling of the CSC**

**In its August 10, 2010** decision, the CSC granted the appeal of Alfornon, and set aside Memorandum Order No. 2009-26 dated December 14, 2003, dismissing her from the service.<sup>[12]</sup>

The CSC essentially held that Alfornon was denied due process for noncompliance with the Uniform Rules on Administrative Cases in the Civil Service (*URACCS*).<sup>[13]</sup> Based on its review of the records, the Commission found that a formal investigation was immediately conducted without Galeos - as the disciplining authority - issuing any formal charge. This procedural lapse, according to the Commission, was not in accordance with Sections 15 & 16, Rule II of the URACCS, and thus violated Alfornon's right to due process.

Accordingly, the CSC directed Galeos to immediately reinstate Alfornon to her former position, and to pay her backwages and other benefits from the time she was illegally dismissed.

On **January 11, 2011**, the CSC issued a resolution denying Galeos' motion, noting that the motion simply rehashed the same issues which the Commission had already resolved.<sup>[14]</sup>

The CSC further held that there was no legal basis to consider the endorsement of the complaint-affidavit filed against Alforon as a formal charge because it lacked the necessary requirements. To be considered a formal charge, the CSC pointed out, it must have informed Alforon that she had the right to file an answer, to request for a formal investigation, and to be assisted by counsel.

On February 21, 2011, Galeos, through counsel, filed a petition for review under Rule 43 of the Rules of Court before the CA.

### **Ruling of the CA**

In the assailed February 29, 2012 decision, the CA reversed the August 10, 2010 decision and the January 11, 2011 resolution of the CSC, and reinstated Memorandum Order No. 2009-26 dated December 14, 2003.

The CA ruled that Alforon's right to due process was never impaired as the records reveal that:

- (1) Memorandum No. 2009-23 was issued requiring Alforon to show cause why she should not be dismissed on the ground of non-disclosure that she had been formally charged with estafa in 2002;
- (2) Alforon submitted her written explanation on October 2, 2009;
- (3) She was given sufficient notice of the complaint-affidavit of Delos Santos against her and of the setting of the hearings of her administrative case;
- (4) She was issued a subpoena directing her to submit to the committee within three (3) days from notice to file her counter- affidavit and supporting documents;
- (5) Galeos issued Memorandum Order No. 2009-26 ordering her dismissal after the parties had submitted their arguments and evidence; and
- (6) Alforon sought recourse with the CSC by filing an appeal.

Additionally, the CA affirmed the finding that Alforon was guilty of dishonesty which it found to be supported by substantial evidence. Finally, the CA found no merit in Alforon's defense of good faith.

After the CA denied her motion for reconsideration in its September 5, 2012 resolution, Alforon filed the present petition.

### **Our Ruling**

The issues raised in this case are both questions of law, which we can properly take cognizance of in a Rule 45 review. A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted.<sup>[15]</sup>

Alforon essentially questions the application of the law and jurisprudence on the

issues of (1) whether she was afforded due process before she was dismissed from the service, and (2) whether she committed a lesser degree of dishonesty, warranting a less harsh penalty than dismissal.

No further examination of the truth or falsity of the facts is required in this case because Alforon admitted that she failed to disclose in her PDS that she had been previously charged with estafa. Our review of the case is limited to the determination of whether the CA and the administrative tribunals correctly applied the law and jurisprudence based on the facts on record.

We agree with the CA that Alforon's right to due process was not impaired.

Alforon argues that her right to due process was violated because Galeos, as the Municipal Mayor of Argao, disregarded Sections 15 & 16, Rule 3 of the URACCS, which provide:

Section 15. *Decision or Resolution After Preliminary Investigation.* - If a prima facie case is established during the investigation, a formal charge shall be issued by the disciplining authority. A formal investigation shall follow.

In the absence of a *prima facie* case, the complaint shall be dismissed.

Section 16. *Formal Charge.* - After a finding of a *prima facie* case, the disciplining authority shall formally charge the person complained of. The formal charge shall contain a specification charge(s), a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge(s) in writing under oath in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his answer whether or not he elects a formal investigation of the charge(s) and a notice that he is entitled to be assisted by a counsel of his choice.

If the respondent has submitted his comment and counter-affidavits during the preliminary investigation, he shall be given the opportunity to submit additional evidence.

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After carefully examining the records of this case, we find that there was substantial compliance in following the procedure laid down in the URACCS.

This case started when Galeos discovered that Alforon had a previous warrant of arrest issued against her. When Galeos realized that Alforon previously declared in her PDS that she had never been formally charged, he issued Memorandum No. 2009-23 requiring her to explain her PDS declaration.

In *Garcia v. Molina*,<sup>[16]</sup> we held that the respondents were denied due process because they were not given the opportunity to air out their side before the

disciplining authority filed formal charges against them. <sup>[17]</sup> Here, however, Alforon was able to explain her side and, in fact, admitted that she gave a false answer in her PDS.

What happened next was a deviation from the procedure laid down in the URACCS. Following Alforon's letter-reply to Memorandum No. 2009-23, Delos Santos filed a complaint-affidavit against her with a letter addressed to the investigation committee for proper action. On the following day, Galeos endorsed the letter-complaint of Delos Santos to the investigation committee and requested a formal investigation. In our view, this endorsement can be equated to the formal charge required by the URACCS after the preliminary investigation.

What followed after the endorsement was a formal investigation conducted by the LGU-Argao Fact-Finding Committee. After determining that the complaint was sufficient in form and in substance, the committee issued a subpoena,<sup>[18]</sup> which Alforon received on October 21, 2009, requiring her to submit her counter-affidavit and supporting documentary evidence. Alforon, in turn, duly complied and filed her counter-affidavit. She was likewise able to file a rejoinder-affidavit after Delos Santos filed a reply-affidavit. It was only after all the pleadings and documents had been submitted that the committee gave its recommendation to Galeos to dismiss Alforon from the service.

From the foregoing, we are convinced that there was substantial compliance with the procedure laid down in the URACCS (now RRACCS) before Alforon's dismissal was resolved.

Besides, there is no requirement in the administrative determination of contested cases for strict adherence to technical rules in the manner observed in judicial proceedings.<sup>[19]</sup> 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>[20]</sup> For as long as the right to due process is recognized and respected, administrative tribunals may relax the technical rules of procedure.

The essence of due process is simply the opportunity to be heard.<sup>[21]</sup> Due process - in administrative proceedings - is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself.<sup>[22]</sup> The filing of charges and a fair and reasonable opportunity to explain one's side suffice to meet the minimum requirements of due process.<sup>[23]</sup>

In the present case, Alforon was given every opportunity to face the charges of dishonesty against her. She was able to give her answer during the initial investigation before Galeos and before the formal investigation conducted by the LGU-Argao Fact-Finding Committee.

Also, Alforon sought reconsideration before the CSC. While the filing of a motion for reconsideration does not necessarily cure a violation of the right to due process,<sup>[24]</sup> the move, however, gives due recognition to the right to due process.<sup>[25]</sup>