

SECOND DIVISION

[G.R. No. 209283, March 11, 2015]

CECILIA RACHEL V. QUISUMBING, PETITIONER, VS. LORETTA ANN P. ROSALES, MA. VICTORIA V. CARDONA AND NORBERTO DELA CRUZ, IN THEIR CAPACITIES AS CHAIRPERSON AND MEMBERS, RESPECTIVELY, OF THE COMMISSION ON HUMAN RIGHTS, RESPONDENTS.

D E C I S I O N

BRION, J.:

Before this Court is the petition for *certiorari* and prohibition^[1] under Rule 65 of the Rules of Court filed by petitioner Commissioner Cecilia Rachel V. Quisumbing (*petitioner*) to annul and set aside the Show Cause Order dated September 18, 2013 issued by the Commission on Human Rights (*CHR*), through its Chairperson Loretta Ann P. Rosales (*Chairperson Rosales*).

The Antecedents

In a meeting of the CHR held on September 18, 2013, several complaints of former employees of the petitioner, namely: Ma. Regina D. Eugenio (*Eugenio*), Elizabeth Diego-Buizon (*Buizon*), Alexander B. Fernandez (*Fernandez*), and Jesse Ayuste (*Ayuste*) were taken up by the CHR. Only respondents Chairperson Rosales, Commissioner Ma. Victoria V. Cardona and Commissioner Norberto dela Cruz (*Commissioner dela Cruz*) were present during the meeting; the petitioner was on sick leave while Commissioner Jose Manuel S. Mamauag (*Commissioner Mamauag*) was away on official business.

In their affidavits, Eugenio, Buizon, Fernandez and Ayuste accused the petitioner of: (1) seriously maltreating and inflicting upon them mental abuse through her unreasonable behavior and demands on how they should work in or out of the office; (2) taking a cut from some of her employees' salaries to form an office fund under her sole control; (3) repeatedly misplacing and taking no action on official documents requiring her action; (4) forging another commissioner's signature; (5) hiring employees who do not come to work; and (6) contracting consultancy work for another government agency.

On the bases of these affidavits, the CHR issued on the same day Resolution CHR (IV) No. A2013-148 (*CHR Resolution*), through Chairperson Rosales, a Show Cause Order (dated September 18, 2013), requesting the petitioner to submit within five (5) days from receipt, a written explanation as to why she should not be held liable for any administrative disciplinary actions, and to transmit the written explanation together with her supporting documents to the Office of the Ombudsman. The Show Cause Order specified allegations of the petitioner's involvement in the commission of certain acts of malfeasance or misfeasance constituting misconduct,

dishonesty, oppression, grave abuse of authority and conduct prejudicial to the best interest of service, all in violation of the Civil Service Laws and Rules and the Code of Conduct and Ethical Standards for Public Officials and Employees. The Show Cause Order was served at the petitioner's office on September 19, 2013.

On September 26, 2013, Commissioner Mamauag issued a Memorandum stating his concurrence with the September 18, 2013 CHR Resolution.

On September 27, 2013, Chairperson Rosales sent letters to the President of the Republic of the Philippines and the Office of the Ombudsman regarding the complaints and allegations against the petitioner. Attached to the letters were copies of the Show Cause Order and the CHR Resolution. Chairperson Rosales brought attention to the serious allegations against the petitioner and prayed for the Offices' appropriate action. Chairperson Rosales also requested the Office of the Ombudsman to act on the complaint in accordance with the established investigation and prosecutorial procedures.

On October 4, 2013, the petitioner filed with the CHR Secretariat a Manifestation and Motion to Dismiss the Show Cause Order. The petitioner assailed the validity of the Show Cause Order, claiming that its issuance is null and void because it denied her due process.

Without waiting for the CHR to act on her motion, the petitioner filed on October 16, 2013, the present Petition for *Certiorari* and Prohibition before this Court.

On October 23, 2013, the CHR through Chairperson Rosales and Commissioners dela Cruz and Mamauag issued an Order stating that it could no longer act on petitioner's Motion to Dismiss since the case had been forwarded to the Office of the Ombudsman by virtue of its letter dated September 27, 2013.

The Petition

The petitioner imputes the following errors committed by the respondents:

- I. The respondents acted without jurisdiction and/or with grave abuse of discretion amounting to lack of jurisdiction in ordering the petitioner to show cause why she should not be held liable for administrative disciplinary actions on the bases of the allegations stated in the Show Cause Order, in violation of the petitioner's right to due process of law.
- II. The respondents acted without jurisdiction and/or with grave abuse of discretion amounting to lack of jurisdiction in filing charges with the President of the Republic of the Philippines and the Office of the Ombudsman against the petitioner without due process of law.

The petitioner argues that the respondents gravely abused their discretion when they issued the Show Cause Order and the CHR Resolution during the meeting held on September 18, 2013, knowing fully well that the petitioner would not be able to attend the same. The petitioner claims that the respondents acted in bad faith and with malice when they brought up at this meeting, during her absence, the

complaints of her former employees, thereby depriving her of the opportunity to refute the allegations and to participate as a member of the CHR.

The petitioner also questions the validity of the Show Cause Order as it appears to have been issued by Chairperson Rosales alone. She points out that Chairperson Rosales, without reference to the other members of the CHR, solely signed and issued the Show Cause Order. Citing *GMCR, Inc. v. Bell Telecommunication Philippines, Inc.*,^[2] the petitioner contends that the act of a single member, though he may be its head, done without the participation of others, cannot be considered the act of the collegial body itself. Since the CHR is a collegial body requiring the concurrence of majority of its members in order to validly arrive at a decision, the act of Chairperson Rosales in issuing the Show Cause Order amounted to usurpation of the authority and prerogative of the CHR.

The petitioner further maintains that the Show Cause Order is insufficient to enable her to respond to the allegations made because it does not specifically state: (1) the "acts of malfeasance or misfeasance by way of misconduct, grave abuse of authority and conduct prejudicial to the best interest of service" that she allegedly committed; and (2) the "civil service laws and rules, and the Code of Conduct and Ethical Standards for Public Officials and Employees" that she allegedly violated. Thus, the petitioner claims that she was denied due process of law.

The petitioner lastly alleged that the respondents gravely abused their discretion when they referred the affidavits of her former employees to the President of the Republic of the Philippines and the Office of the Ombudsman. She claims that since the CHR, as a body, was not empowered by law to act on disciplinary complaints against its own members, the respondents have no authority to issue the Show Cause Order.

The Office of the Solicitor General's Comment

The Office of the Solicitor General (OSG) filed its Comment^[3] dated January 13, 2014, on behalf of the respondents, arguing that the petitioner availed of the wrong remedy when she filed the special civil action for *certiorari* to assail the Show Cause Order. The OSG points out that a special civil action for *certiorari* is available only when any tribunal, board or officer *exercising judicial or quasi-judicial functions* has acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. Since the respondents, acting in their official capacities as Chairperson and Members of the CHR, were not engaged in judicial or quasi-judicial functions when they issued the assailed Show Cause Order, the petition for *certiorari* should be dismissed for being an improper remedy.

The OSG also asserts that the petitioner failed to show that the respondents acted with grave abuse of discretion in issuing the Show Cause Order. The OSG emphasizes that aside from petitioner's bare allegations of malice and bad faith, she did not offer any convincing evidence proving that the respondents exercised their power in an arbitrary or despotic manner, by reason of passion or personal hostility.

The OSG lastly submits that the petitioner failed to exhaust all administrative remedies available to her before instituting the present petition. Since the petitioner had an ample administrative remedy under the law to protect her right, it was