

SECOND DIVISION

[G.R. No. 206379, November 19, 2014]

CECILIA PAGADUAN, PETITIONER, VS. CIVIL SERVICE COMMISSION* AND REMA MARTIN SALVADOR, RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

Subject of this disposition is the petition for review on *certiorari* filed under Rule 45 of the Rules of Court which seeks to review, reverse and set aside the August 31, 2012 Amended Decision^[1] and the February 20, 2013 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 120208, involving a complaint for falsification and misrepresentation.

Initially, the Court *denied* the petition in its July 10, 2013 Resolution^[3] for failure of the petitioner to show any reversible error in the challenged amended decision as to warrant the exercise of the Court's discretionary appellate jurisdiction. (*Rollo*, p. 101.)

The petitioner filed a *motion for reconsideration*, and on October 23, 2013, the Court granted the said motion and set aside the July 10, 2013 Resolution. In the same October 23, 2013 resolution, the Court *reinstated the petition* and required the respondents to file their comments thereon. On January 23, 2014, the private respondent filed her Comment. On February 7, 2014, the petitioner filed her Reply to Comment. (*Rollo*, p. 1 10)

The Facts:

On May 14, 1992, petitioner Cecilia Pagaduan (*Pagaduan*) filed a notarized complaint with the Civil Service Commission-Regional Office No. 2 (*CSC-RO II*) in Tuguegarao City, Cagayan, against respondent Rema Martin Salvador (*Salvador*), newly appointed Municipal Budget Officer at that time, charging her with the administrative offenses of falsification and misrepresentation. Pagaduan alleged that Salvador did not actually possess the necessary budgeting experience required by her position; and that although she indicated in her Personal Data Sheet (*PDS*) that she performed bookkeeping and accounting functions for Veteran's Woodworks, Inc. (*VWI*) from August 1, 1990 to February 15, 1992, she was never in fact employed by the said entity.^[4]

Salvador on the other hand, claimed that she had been employed by Alfonso Tuzon (*Tuzon*), whom the Board of Directors of VWI had granted full management, direct supervision and control of VWFs logging operations. She explained that her name did not appear in the employees' payroll because Tuzon's office was independent from VWI's original staff.^[5]

Subsequently, on October 19, 1994, Pagaduan filed with the Municipal Trial Court in Cities, Branch 4, Tuguegarao City (MTCC), a criminal charge against Salvador for falsification of public documents under Article 172 in relation to Article 171(4) of the Revised Penal Code in making false statements in her PDS, which was docketed as Criminal Case No. 15482.

On May 22, 2000, a decision^[6] on the administrative complaint was rendered by the CSC-RO II, holding Salvador liable only for Simple Misconduct and imposing the penalty of one (1) month suspension, after ruling that her act was a mere error of judgment.

Unsatisfied, Pagaduan filed a motion for reconsideration which was, however, denied. She then appealed to the Civil Service Commission (CSC), which found the appeal to be without merit, ruling that she had no standing to file the appeal as she was not the party aggrieved by the CSC-RO II decision. The CSC also approved Salvador's qualification as Municipal Budget Officer because her experience in VWI was a "related field."^[7]

Pagaduan ceased her pursuit and did not move for a reconsideration or appeal. Thus, on January 21, 2002, the CSC-RO II issued the order, stating that its May 22, 2000 decision had attained finality. Salvador then served the penalty of one (1) month suspension.^[8]

Later, on October 22, 2008, the MTCC rendered a decision^[9] in Criminal Case No. 15842, finding Salvador guilty of falsification of public documents. Salvador did not appeal and then applied for probation. Her application was granted and she was placed under probation for a period of one (1) year.

Thereafter, Pagaduan filed a second administrative complaint against Salvador, this time for the offense of conviction of a crime involving moral turpitude. Salvador submitted the required counter affidavit, raising the defenses of *res judicata*, forum shopping, and double jeopardy on account of the finality of the decision in the first administrative complaint for falsification. After finding a *prima facie* case in the second administrative complaint, Salvador was formally charged. To answer the charges against her, she adopted her defenses in her counter-affidavit and submitted documents to support her cause.

On January 12, 2010, the CSC-RO II rendered a decision,^[10] finding Salvador guilty of the administrative offense of conviction of a crime involving moral turpitude because of her conviction for falsification before the MTCC, and imposing the penalty of dismissal from the service with all its accessory penalties. Thus:

WHEREFORE, premises considered, REMA MARTIN SALVADOR is hereby declared guilty of **CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE** and is meted the penalty of **DISMISSAL FROM THE SERVICE WITH ALL ITS ACCESSORY PENALTIES.**^[11]

Aggrieved, Salvador moved for reconsideration, but the motion was denied.

Salvador appealed to the CSC, which rendered a decision^[12] on March 1, 2011 *reversing* and *setting aside* the decision of the CSC-RO II and exonerating her of the charge. She was sternly warned to be more cautious and prudent in accomplishing public documents. The CSC ruled that the criminal offense of falsification of public document did not *per se* involve moral turpitude, following the Court's pronouncement in *Dela Torre vs. COMELEC*,^[13] citing *Zari vs. Flores*.^[14] The CSC stated that since the liability of Salvador in the first administrative complaint was lowered to Simple Misconduct, the crime ascribed to her could not be said to have been attended with inherent baseness or vileness or depravity.^[15] The dispositive portion of the March 1, 2011 CSC Decision reads:

WHEREFORE, the Petition for Review (appeal) filed by Rema Martin Salvador is hereby **GRANTED**. Accordingly, the Decision dated January 12, 2010 issued by Civil Service Commission Regional Office (CSCRO) No. II finding her guilty of Conviction of a Crime Involving Moral Turpitude and meting upon her the penalty of dismissal from the government service with all its accessory penalties is hereby **REVERSED** and **SET ASIDE**. Thus, appellant Rema Martin Salvador is EXONERATED of the charge of Conviction of Crime Involving Moral Turpitude levelled against her. She is **STERNLY WARNED** to be more cautious and prudent in accomplishing public documents.^[16]

Pagaduan moved for reconsideration but the motion was denied on June 1, 2011. Hence, an appeal was made to the CA which ruled that following precedents, a conviction for falsification of public document constituted the offense of conviction of a crime involving moral turpitude.^[17] The gravity of Salvador's falsification was highlighted by her commission of the same in her PDS, which was no ordinary contract.^[18] Thus, on February 28, 2012 the CA disposed in this wise:

WHEREFORE, premises considered, the Decision of the Commission dated 1 March 2011 and its Resolution promulgated 3 June 2011 affirming the same are hereby **REVERSED** and **SET ASIDE**. Consequently, the Decision of the Civil Service Commission Regional Office No. 2 of Tuguegarao City, Cagayan, dated 12 January 2010, is hereby **AFFIRMED**.

SO ORDERED.^[19]

Salvador then filed a motion for reconsideration of the February 28, 2012 CA Decision.^[20] On August 31, 2012, in a turn-around, the CA granted her motion and issued the assailed Amended Decision,^[21] *reversing* and *setting aside* its previous decision and reinstated the March 1, 2011 CSC decision. It agreed with the findings of the CSC that the act of falsification committed by Salvador did not involve moral turpitude as it was a mere error of judgment on her part. The dispositive portion of the Amended Decision reads:

WHEREFORE, premises considered, the instant Motion for Reconsideration is **GRANTED**, such that Our Decision dated 28 February 2012 is hereby **REVERSED** and **SET ASIDE** and in view thereof, the Decision and Resolution of public respondent Civil Service Commission dated 01 March 2011 and 01 June 2011 respectively, are **REINSTATED**.

SO ORDERED. [22]

Hence, this petition.

ASSIGNMENT OF ERRORS

- I. THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT FINALLY EXONERATED RESPONDENT OF THE ADMINISTRATIVE CHARGE OF CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE BY FINDING THE FALSIFICATION COMMITTED BY RESPONDENT IN HER PERSONAL DATA SHEET AS ONLY A SIMPLE MISCONDUCT WHICH DOES NOT AMOUNT TO MORAL TURPITUDE.**
- II. THE HONORABLE COURT OF APPEALS ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION AND AUTHORITY AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN NOT APPLYING IN THE INSTANT CASE THE DOCTRINE LAID DOWN IN THE CASE OF *TEVES VS. SANDIGANBAYAN* WHICH SPECIFICALLY CATEGORIZED THE CRIME OF FALSIFICATION OF PUBLIC DOCUMENT FOR WHICH RESPONDENT WAS CONVICTED AS A CRIME WHICH INVOLVES MORAL TURPITUDE.**
- III. THAT THE HONORABLE COURT OF APPEALS ERRED AND ACTED IN GRAVE ABUSE OF ITS AUTHORITY AND DISCRETION IN NOT AFFIRMING THE DECISION OF THE CSC-ROII WHICH DISMISSED FROM THE GOVERNMENT SERVICE PRIVATE RESPONDENT OF THE OFFENSE OF CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE.**

[23]

In this case, the substantive issue for resolution is whether or not Salvador was convicted of a crime involving moral turpitude. On the other hand, the procedural issues of *res judicata* and forum shopping were raised by the respondent.

The Ruling of the Court

As previously recited, this petition arose from the second administrative complaint filed by Pagaduan against Salvador. The first administrative complaint was for the offenses of falsification and misrepresentation, where the CSC-RO II found her to be

liable for simple misconduct only. The CSC decision affirming the said CSC-RO II decision became final and executory, and Salvador served the penalty of one (1) month suspension.

Meanwhile, the October 22, 2008, MTCC decision^[24] in the criminal case filed by Pagaduan against Salvador, finding the latter guilty of the crime of falsification of public document, attained finality as Salvador did not appeal. By reason of the said conviction, Pagaduan filed the second administrative complaint for the offense of conviction of a crime involving moral turpitude.

Before discussing the substantial aspect of the case, the issues on the procedural aspect shall first be addressed.

In her Comment,^[25] Salvador invoked *res judicata*. and forum shopping in arguing that the second administrative case was already barred by the prior administrative case against her. It was her contention that both cases involved the same parties, the same facts and issues, although with different causes of action.^[26]

The principle of *res judicata* is applicable either by way of "bar by prior judgment" or by "conclusiveness of judgment." Here, Salvador's defense was *res judicata* by conclusiveness of judgment, in *Borra v. Court of Appeals*,^[21] the Court stated that:

Stated differently, conclusiveness of judgment finds application **when a fact or question has been squarely put in issue, judicially passed upon, and adjudged in a former suit by a court of competent jurisdiction**. The fact or question settled by final judgment or order binds the parties to that action (and persons in privity with them or their successors-in-interest), and continues to bind them while the judgment or order remains standing and unreversed by proper authority on a timely motion or petition; the conclusively-settled fact or question cannot again be litigated in any future or other action between the same parties or their privies and successors-in-interest, in the same or in any other court of concurrent jurisdiction, either for the same or for a different cause of action. Thus, only the identities of parties and issues are required for the operation of the principle of conclusiveness of judgment. [Emphasis supplied]

Contrary to Salvador's contention, however, there appears to be no identity of issues and facts in the two administrative cases. The first case involved facts necessary to resolve the issue of whether or not Salvador falsified her PDS. The second one involved facts necessary to resolve the issue of whether or not Salvador was convicted of a crime involving moral turpitude. Falsification was the main issue in the first case, while it was no longer an issue in the second case. The only fact to consider in the second administrative complaint is the fact of conviction of a crime involving moral turpitude, it must be borne in mind that both administrative complaints were based on different grounds. The grounds were separate and distinct from each other and entailed different sets of facts.

Corollarily, Pagaduan cannot be liable for forum shopping. The established rule is that for forum shopping to exist, both actions must involve the same transactions,