

SPECIAL THIRD DIVISION

[G.R. NO. 154243, December 04, 2007]

DEPUTY DIRECTOR GENERAL ROBERTO LASTIMOSO, ACTING CHIEF PHILIPPINE NATIONAL POLICE (PNP), DIRECTORATE FOR PERSONNEL AND RECORDS MANAGEMENT (DPRM), INSPECTOR GENERAL, P/CHIEF SUPT. RAMSEY OCAMPO AND P/SUPT. ELMER REJANO, PETITIONERS, VS. P/SENIOR INSPECTOR JOSE J. ASAYO, RESPONDENT.

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is respondent's Motion for Reconsideration of the Decision promulgated on March 6, 2007. In said Decision, the Court granted the petition, holding that the Philippine National Police (PNP) Chief had jurisdiction to take cognizance of the civilian complaint against respondent and that the latter was accorded due process during the summary hearing.

Respondent argues that the decision should be reconsidered for the following reasons:

1. The summary proceeding was null and void because no hearing was conducted; and
2. The evidence presented at the summary hearing does not prove that respondent is guilty of the charges against him.

Respondent insists that the summary hearing officer did not conduct any hearing at all but only relied on the affidavits and pleadings submitted to him, without propounding further questions to complainant's witnesses, or calling in other witnesses such as PO2 Villarama. It should, however, be borne in mind that the fact that there was no full-blown trial before the summary hearing officer does not invalidate said proceedings. In *Samalio v. Court of Appeals*,^[1] the Court reiterated the time-honored principle that:

Due process in an administrative context does not require trial-type proceedings similar to those in courts of justice. Where opportunity to be heard either through oral arguments or through pleadings is accorded, there is no denial of procedural due process. **A formal or trial-type hearing is not at all times and in all instances essential.** The requirements are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand. The standard of due process that must be met in administrative tribunals allows a certain degree of latitude as long as fairness is not ignored. In other words, **it is not legally objectionable for being violative of due process for an administrative agency to resolve a**

case based solely on position papers, affidavits or documentary evidence submitted by the parties as affidavits of witnesses may take the place of their direct testimony.^[2] (Emphasis supplied)

The first issue presented by respondent must, therefore, be struck down.

To resolve the second issue, respondent would have the Court re-calibrate the weight of evidence presented before the summary hearing officer, arguing that said evidence is insufficient to prove respondent's guilt of the charges against him.

However, it must be emphasized that the action commenced by respondent before the Regional Trial Court is one for *certiorari* under Rule 65 of the Rules of Court and as held in *People v. Court of Appeals*,^[3] where the issue or question involved affects the wisdom or legal soundness of the decision – not the jurisdiction of the court to render said decision – the same is beyond the province of a special civil action for *certiorari*.

Yet, respondent-movant's arguments and the fact that the administrative case against respondent was filed way back in 1997, convinced the Court to suspend the rules of procedure.

The general rule is that the filing of a petition for *certiorari* does not toll the running of the period to appeal.^[4]

However, Section 1, Rule 1 of the Rules of Court provides that the Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. In *Ginete v. Court of Appeals*^[5] and *Sanchez v. Court of Appeals*,^[6] the Court saw it proper to suspend rules of procedure in order to promote substantial justice where matters of life, liberty, honor or property, among other instances, are at stake.

The present case clearly involves the honor of a police officer who has rendered years of service to the country.

In addition, it is also understandable why respondent immediately resorted to the remedy of *certiorari* instead of pursuing his motion for reconsideration of the PNP Chief's decision as an appeal before the National Appellate Board (NAB). It was quite easy to get confused as to which body had jurisdiction over his case. The complaint filed against respondent could fall under both Sections 41 and 42 of Republic Act (R.A.) No. 6975 or the Department of the Interior and Local Government Act of 1990. Section 41 states that citizens' complaints should be brought before the People's Law Enforcement Board (PLEB), while Section 42 states that it is the PNP Chief who has authority to immediately remove or dismiss a PNP member who is guilty of conduct unbecoming a police officer.

It was only in *Quiambao v. Court of Appeals*,^[7] promulgated in 2005 or **after respondent had already filed the petition for *certiorari* with the trial court**, when the Court resolved the issue of which body has jurisdiction over cases that fall under both Sections 41 and 42 of R.A. No. 6975. The Court held that the PLEB and the PNP Chief and regional directors have **concurrent jurisdiction over administrative cases** filed against members of the PNP which may warrant