

EN BANC

[G.R. NO. 160195, October 30, 2006]

CIVIL SERVICE COMMISSION, PETITIONER, VS. FLORELIO U. MANZANO, RESPONDENT.

DECISION

CHICO-NAZARIO, J.:

In this Petition for Review on *Certiorari*^[1] under Rule 45 of the Revised Rules of Court, petitioner Civil Service Commission seeks to reverse the Decision dated 26 October 2001^[2] and Resolution dated 9 September 2003^[3] of the Court of Appeals, which set aside Resolution No. 97-4646 dated 18 December 1997^[4] issued by the petitioner. In its Decision and Resolution, the Court of Appeals ordered the petitioner to reinstate and give due course to the appeal of respondent Florelio U. Manzano from the resolution/decision of the Board of Directors of the Land Bank of the Philippines (LBP) dismissing respondent from the service for grave misconduct and conduct grossly prejudicial to the best interest of service under the Civil Service Law.

Culled from the records are the following facts:

Respondent was employed by the LBP starting as an Agrarian Reform Technologist, then Credit Investigator, until he became a Department Manager II of the LBP Mt. Province Field Office (LBP-MPFO), the last position he held therein until he was dismissed from the service by the LBP on 25 October 1996.^[5]

On 16 June 1994, Prudencio J. Elegado (Elegado), Department Manager II and successor of respondent at the LBP-MPFO, wrote a letter to the LBP Senior Vice-President for Field Operations Division, reporting widespread irregularities in the conduct of lending operations in his area.^[6] In response to the report, the Security and Transport Department (STD) of the LBP conducted an investigation. Based on the information gathered and submitted by the STD, the Judicial Cases Investigation and Legal Research Office (JCILRO) of the LBP found the following facts:

1. That during its initial operation in 1990, LBP-Mt. Province Field Office released Sixteen Million Pesos (P16,000,000.00) worth of agricultural/production loans to different farmer's associations/cooperatives in their area of operations; in 1991, total releases amounted to Sixty Million Pesos (P60,000,000.00); and in 1992, loan releases reached Forty-Six Million Pesos (P46,000,000.00);
2. That when these loans became due and collectible, the Field Office started to encounter difficulties/hardships in its collection efforts considering that many members/sub-borrowers of the cooperative

denied having received the proceeds of the loan. Upon investigation, it was found out that the said problem was caused by the following operational lapses;

- a) Non-cooperative members and non-residents of the locality and even fictitious names of persons were included as bona fide sub-borrowers in the Farm Plan and Budget and became beneficiaries of the loan;
- b) Loan releases were made on a lump sum basis directly to the officers of the cooperatives in violation of the Bank's policy that agricultural loan proceeds shall be deposited in a special savings deposit of the borrowing cooperative(s) and withdrawal therefrom should be on a staggered basis, in accordance with the schedule as reflected in the Farm Plan and Budget. This practice tempted the officers of the cooperative(s) to misappropriate loan proceeds, thereby depriving the legitimate coop members of their share;
- c) In most cases, loan proceeds were used by the cooperative(s) to settle/pay-off its maturing/outstanding loan with LBP or in some cases, with outside financiers instead of re-lending it to its members-borrowers in accordance with the terms and conditions stated in the approved Credit Facilities Proposal.^[7]

In light of the afore-stated discoveries, and pursuant to Section 36, Presidential Decree No. 807, as amended, otherwise known as the Civil Service Decree of the Philippines, the LBP, through its President and Chief Executive Officer, Jesli A. Lapus (Lapus), instituted administrative cases against respondent and two other officers of the LBP-MPFO, namely, Menard Edgar M. Olegario (Olegario), the Chief of Loan and Discount Division, and Manuel G. Guiao (Guiao), who was then the Chief of Field Operations Division.^[8] On 3 April 1995, respondent was formally charged with grave misconduct and conduct grossly prejudicial to the best interest of the service. The formal charge reads:

That on or about and during the period January 1990 to June 1992, you, while then the Head of LBP-Mt. Province Field Office and the Chairman of Field Operations Credit Committee (FOCC), taking advantage of your position as such, approved the production loan applications of Pasbol MPC, Coputan MPC and Balicanao MPC, among others, despite your knowledge that the loan proceeds will be used by the aforementioned cooperatives to settle/pay-off their maturing financial obligation with LBP clearly in contravention with the terms and conditions as provided for under the Consolidated Farm Plan and Budget and in the Credit Facilities Proposal.

In view of the failure of the individual cooperative members to receive their share in the loan proceeds, they refused to pay the same. Resultantly, the cooperatives loan obligation became past due and have remained unpaid and uncollected.

Records likewise revealed that in many instances, you instructed your

staff not to incorporate their adverse findings (call report) in the loan folder of the borrowing cooperatives so as not to be questioned by our Management and Operations Audit Department (MOAD).

Your aforesaid acts constitute grave misconduct and conduct grossly prejudicial to the best interest of the service and may, therefore, be the proper subject of disciplinary action pursuant to Section 36, of Presidential Decree No. 807, as amended, otherwise known as the Civil Service Decree of the Philippines."^[9]

In their joint answer, respondent, Olegario and Guiao, through counsel, denied the acts charged and requested that a formal investigation be conducted. After investigation, respondent, Olegario, Guiao, and the prosecution panel of the LBP submitted the case for resolution based on the minutes of the pre-hearing conference and the memorandum/position papers filed by the parties.^[10]

In his Resolution dated 20 June 1996,^[11] LBP Hearing Officer Candelario A. Sapaden (Sapaden) found respondent guilty of grave misconduct and conduct grossly prejudicial to the best interest of the service. Sapaden recommended the penalty of forced resignation from service against respondent. On the other hand, Sapaden ruled that Olegario is guilty of conduct prejudicial to the best interest of the service, neglect of duty, and violation of reasonable office rules and regulations whereas Guiao is guilty of conduct grossly prejudicial to the best interest of the service. Sapaden recommended the penalty of suspension from service for one year against Olegario whereas in the case of Guiao, Sapaden recommended the penalty of suspension from service for six months and one day.

LBP Senior Vice-President and General Counsel Miguel M. Gonzales (Gonzales) manifested, through a Memorandum dated 21 August 1996^[12] to Lapus, his concurrence in the findings of fact of Sapaden in Resolution dated 20 June 1996 but took exception to the penalties provided therein. Gonzales stated that the penalty on respondent should be dismissal from the service and not merely forced resignation. As regards Olegario, he opined that the case against the former has been rendered moot and academic by the approval of Lapus of the dropping of the case against him as recommended by the JCILRO. In the case of Guiao, he recommended the penalty of suspension from service for nine months and one day instead of six months and one day pursuant to Section 18(b), Book V of Executive Order No. 292.

On 25 October 1996, the LBP Board of Governors, per communication sent to Gonzales by the LBP Corporate Secretary Manuel C. Piczon, promulgated Resolution No. 96-680 entitled, "RESOLUTION IN ADMINISTRATIVE CASE NO. 95-09 RE: LAND BANK OF THE PHILIPPINES VS. FLORELIO U. MANZANO," approving the penalty recommended by Gonzales which is dismissal from the service with the attendant administrative disabilities inherent thereto, viz:

After due deliberation thereon, the Board -

RESOLVED, as it is hereby resolved, That the Resolution of the Hearing Officer in Administrative Case No. 95-09, entitled: "Land Bank of the Philippines, complainant, vs. Florelio U. Manzano, respondent," dated June 20 1996 (the contents of which are hereby incorporated by way of

reference as if set forth herein verbatim), with a modification as to the recommended penalty from Forced Resignation to DISMISSAL from the service with the attendant administrative disabilities inherent thereto be, as it is hereby, approved."^[13]

On 11 November 1996, respondent received a copy of the above-stated resolution. Unyielding, respondent appealed to the petitioner on 28 February 1997.^[14]

In his appeal,^[15] respondent argued that his dismissal from service was unjustified and illegal since the same was initiated by Elegado who was envious of his good performance as the former Department Manager II of the LBP-MPFO; that the evidences presented by the LBP against him, such as his own sworn statement and that of the LBP-MPFO employees, namely, Pedro D. Binas-O, Clifford W.O. Felwa, and Francis Degay, do not prove or show that he committed any wrongful act; that he did not admit any wrongdoing contrary to LBP'S assertion and findings; that assuming *arguendo* that the sworn statements of the abovementioned LBP employees are true and correct, they do not establish any wrongdoing on his part; and the fact that some farmers' organization, which had loans with the LBP-MPFO, converted themselves into cooperatives and, thereafter, applied for loans to pay the account of the farmers' organization, do not by themselves imply any fraud.

Furthermore, respondent asseverated that the account of the farmers' organization with the LBP-MPFO had already been paid; that a cooperative has a personality of its own, separate and distinct as an entity and with a right to sue and be sued; that these cooperatives were legally formed and organized and, therefore, they are not fictitious; that there is no evidence to show that these cooperatives were disqualified from availing loans with the LBP-MPFO; that there is no proof that the granting of loans to these cooperatives have prejudiced the interest of the LBP; that he did not encourage the farmers' organization to convert themselves into cooperatives; that the loans of farmers' organization were paid by them and not by the cooperatives; that the approval of loans in favor of the cooperatives were not illegal or prejudicial to the interest of the LBP; that Sapaden had found that there were merely some infractions of the guidelines in the project; and that he was being singled out by the LBP since the case against Olegario was dropped and that Guiao's penalty was merely suspension from service.

In Resolution No. 974646 dated 18 December 1997, petitioner dismissed the appeal of respondent on the ground that it was filed beyond the 15-day reglementary period as provided for in Section 37 of Civil Service Resolution No. 94-0521, providing for the Uniform Rules of Procedure in the Conduct of Administrative Investigation. Pertinent portion of Resolution No. 974646 reads:

Records show that appellant Manzano received the Resolution of the LBP finding him guilty and imposing the penalty of dismissal on 11 November 1996 but he filed his appeal memorandum to the Commission only on 28 February 1997 or more than three (3) months after his receipt of the decision. Squarely applicable is the decision of the Commission in Resolution No. 95-1746 dated 9 March 1995 which reads as follows:

"The pertinent provision of CSC Resolution No. 94-0521 (Uniform Rules of Procedure in the Conduct of Administrative Investigation) provides as follows:

Sec. 37. Appeals - Decision of heads of departments, agencies, provinces, cities, municipalities and other instrumentalities, imposing penalties exceeding thirty days salary may be appealed to the Commission proper within a period of fifteen (15) days from receipt thereof."

"The abovequoted is a reiteration of Section 49, Chapter 7, Title I (A) Book V of the 1987 Administrative Code.

"The remedy of appeal, being a mere statutory privilege, must be exercised in a manner and in accordance with the law granting the same. The legal requirement of perfecting an appeal within the fifteen (15) day reglementary period is not only mandatory but also jurisdictional. Failure to perfect an appeal within the prescribed period renders the appealed decision final and executory (citing Andaya vs. NLRC, 188 SCRA 235)."

Thus, since the appeal of appellant Manzano was filed beyond the fifteen (15)-day reglementary period, the decision of the LBP has become final and executory.

WHEREFORE, the appeal of Florelio U. Manzano is hereby dismissed.^[16]

Affronted, respondent filed a Petition for Review^[17] with the Court of Appeals praying that Resolution No. 97-4646 dated 18 December 1997 issued by petitioner be set aside and that his retirement from the LBP be approved. In its Decision promulgated on 26 October 2001, the appellate court gave due course to the petition and ruled that although respondent's appeal was filed beyond the reglementary period, it favors the relaxation of the rule on the reglementary period for perfection of appeals in administrative cases where there is delay in the filing of the appeal, so as to serve the interest of substantial justice. It also held that the actuations of respondent did not constitute grave misconduct which warrants his dismissal from service, and that forced retirement from service and not dismissal from service, is the proper penalty that should be imposed on respondent. In conclusion, it ordered the petitioner to reinstate and give due course to respondent's appeal from the resolution of LBP dismissing him from service, thus:

WHEREFORE, premises considered, the instant petition is given due course and GRANTED. The questioned Resolution of respondent Civil Service Commission dated December 18, 1997, dismissing the appeal of petitioner is REVERSED and SET ASIDE. Respondent Commission is hereby ordered to reinstate and give due course to petitioner's appeal from the Resolution of respondent Land Bank of the Philippines dismissing him from the service."^[18]

On 26 November 2001, petitioner filed a Motion for Reconsideration^[19] but the same was denied by the appellate court in its Resolution dated 9 September 2003 on the ground that it did not find any cogent reason to reverse its decision. Relevant portion of the same resolution reads:

It must be noted that Our assailed Decision merely gave due course to the petition for certiorari filed by petitioner Manzano which attributed