

SECOND DIVISION

[G.R. NO. 152443, February 14, 2005]

**ANGELITO HUERTAS, PETITIONER, VS. ANDREW GONZALEZ,
SECRETARY, DEPARTMENT OF EDUCATION, CULTURE AND
SPORTS (DECS), AND CAROLINA DIZON, RESPONDENTS.**

DECISION

CALLEJO, SR., J.:

Before us is a petition for review on certiorari of the Resolution^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 60086 which reversed its Decision^[2] in the said case and its resolution denying the motion for reconsideration of the said resolution.

The Antecedents

An administrative complaint dated July 9, 1996 was filed with the Office of the Regional Director of the then Department of Education, Culture and Sports (DECS), National Capital Region, by Dr. Carolina C. Dizon, the principal of the Bacood Elementary School in Sta. Mesa, Manila, against Angelito M. Huertas, a school teacher in the same school, for grave misconduct, disrespect of authority and violation of the provision of the Magna Carta for Public School Teachers.^[3]

It appears that shortly after the opening of academic year 1996, the school conducted a regular election of the officers of the faculty club. Huertas was re-elected president, besting for the second time around his co-teacher, Mrs. Catalina Lorenzo. This notwithstanding, a group of teachers circulated a manifesto denouncing Huertas. As a countermove, Huertas launched his own signature campaign to show his clear mandate.^[4]

Huertas received information that Dizon was preventing the teachers from signing in his favor.^[5] He rushed to the office of Dizon and angrily demanded, "*Bakit mo pinipigilan ang mga teachers na pumirma?*" (Why are you preventing the teachers to sign?)^[6] Shocked at Huertas's accusations and violent gestures, Dizon stood up and retorted: "*Anong pinipigilan ang sinasabi mo?*" (What are you talking about?)^[7] to which Huertas riposted, "*May mga teachers na nagsasabi na pinipigilan mo silang pumirma sa pinapipirmahan ko.*" (Some teachers are claiming that you are preventing them from signing in my behalf.)^[8] Dizon then dared Huertas to show to her the faces of her detractors: "*Bakit ko sila pipigilan, hindi ko alam ang sinasabi mo. Sino man ang nagsabi niyan, iharap mo sila sa akin.*"^[9] After the heated exchange of words, Huertas decided to leave, but before doing so, warned Dizon, "*Pag hindi ka tumigil, tayo ang magkakasuhan.*" (If you don't stop, I will sue you.)^[10] Dizon preempted Huertas and filed an administrative complaint against him.

An Investigating Committee (Grievance Committee) was constituted for the purpose, chaired by Atty. Manuel Ano, with Mrs. Purificacion Balingit and an unidentified school official, as members.^[11]

Aside from her affidavit-complaint, Dizon submitted the affidavits of Amelia del Rosario and Rosario Amarante, the clerk and janitress of the school, respectively. Huertas submitted his counter-affidavit. Dizon submitted her reply-affidavit, to which Huertas submitted his rejoinder-affidavit.

The Investigating Committee conducted a preliminary hearing which was held on July 23, 1996. No amicable settlement was forged by the parties. The formal investigation was set on September 10, 1996, during which Huertas appeared without the assistance of counsel. The parties agreed to submit the case for resolution without any formal investigation on the basis of the affidavits on record.

In time, the Grievance Committee submitted its investigation report, finding Huertas guilty of gross discourtesy in the course of official duties and recommended the penalty of six (6) months suspension.^[12] Huertas appealed the report, claiming that Purificacion Balingit, one of the members of the hearing committee, was partial against him.

In a Resolution dated October 16, 1996, Regional Director Nilo Rosas modified the findings and recommendation of the Grievance Committee. He found Huertas guilty of gross disrespect and imposed on him the penalty of one (1) month suspension from service without pay. The dispositive portion of the resolution reads:

WHEREFORE, in view of the foregoing incidents, the instant charge of Grave Misconduct is hereby dropped for lack of substantial evidence. However, respondent is hereby found guilty of the charge of Gross Disrespect. However, to temper the harshness of the law, hereby meted is the penalty of suspension for one (1) month effective upon receipt hereof without pay. Further, respondent is hereby advised to be more circumspect in his actuations to forestall, henceforth, the filing of similar complaints against him in the future.^[13]

Huertas moved for a reconsideration of the resolution on the alleged ground of lack of due process, both substantive and procedural.^[14] He claimed that he was not represented by counsel during the investigation on September 10, 1996 and that the Grievance Committee failed to conduct a formal investigation of the case. Director Rosas denied the motion, prompting Huertas to appeal the resolution to the DECS Secretary via a petition for review.

On November 20, 1997, then DECS Secretary Ricardo T. Gloria issued a Resolution reversing the resolutions of the Regional Director and dismissing the administrative complaint for want of a formal hearing. The Secretary ruled that Huertas was deprived of his right to due process when the Grievance Committee dispensed with a formal investigation and based its report-recommendation merely on the affidavits of the parties and those of the witnesses of the complainant. The *fallo* of the resolution reads:

WHEREFORE, in view of the foregoing, the decision of the Regional Director, Department of Education, Culture and Sports, National Capital

Region, meting the penalty of one month suspension without pay is hereby reversed. Accordingly, the administrative case against the respondent is hereby dismissed for lack of due process. However, respondent is hereby warned to be more circumspect in his actuations to forestall the filing of similar complaint against him in the future.

SO ORDERED.^[15]

Dissatisfied, Dizon herself filed a motion for the reconsideration of the resolution. On March 20, 1998, then Acting Secretary Erlinda C. Pefianco reconsidered the ruling of her predecessor and reinstated the resolution of the Regional Director. The fallo of the resolution reads:

In view hereof, the Resolution of this Office dated November 20, 1997 is reconsidered. Accordingly, the decision of the DECS Regional Director, National Capital Region, dated October 28, 1996, is hereby restored.^[16]

Huertas filed a petition for review which was treated as a motion for reconsideration by then DECS Secretary Andrew Gonzalez, FSC.^[17] On June 10, 1999, Secretary Gonzalez reconsidered and set-aside Secretary Pefianco's March 20, 1998 Resolution and reinstated Secretary Gloria's November 20, 1997 Resolution. The dispositive portion reads:

The resolution of then Secretary Erlinda C. Pefianco, dated March 20, 1998, is hereby reversed and the Resolution of then Secretary Ricardo T. Gloria dated November 11, 1997 (sic), which dismissed the complaint for lack of due process, is hereby revived.

SO ORDERED.^[18]

In reinstating Secretary Gloria's November 20, 1997 Resolution, Secretary Gonzalez tersely and succinctly ratiocinated:

It is evident that then Secretary Pefianco acted on the motion for Reconsideration of the [complaint] contrary to the rule that only the respondent can file a motion for reconsideration (CSC Resolution No. 94-0512, Sec. 7).^[19]

Dizon, this time, filed a motion for the reconsideration of the June 10, 1999 Resolution of the Secretary. Acting thereon, the Secretary made a *volte face* and reinstated Secretary Pefianco's Resolution of March 20, 1998 on July 23, 1999, thus:

WHEREFORE, in view of the foregoing, this Office hereby recalls its Resolution dated June 10, 1999 and restores the Resolution of Acting Secretary Erlinda Pefianco, dated March 20, 1998.

SO ORDERED.^[20]

Huertas filed a letter-request for the reconsideration thereof, which the Secretary denied. The case was considered closed and terminated:

WHEREFORE, this Office hereby denies the said motion and considers the case closed and terminated, insofar as this Department is concerned.^[21]

The Secretary considered the letter-request of Huertas as a second motion for reconsideration which was proscribed by Section 49, Rule XIV of Executive Order (E.O.) No. 292, otherwise known as the 1987 Revised Administrative Code.

Aggrieved by the foregoing rulings, Huertas filed a petition for review in the CA wherein he raised the following issues:

I

WHETHER OR NOT THE COMPOSITION OF THE GRIEVANCE/INVESTIGATION COMMITTEE, DECS-NCR, DIVISION OF CITY SCHOOLS, THAT CONDUCTED THE HEARING IN THE PRESENT CASE WAS IN ACCORDANCE WITH THE MANDATE OF REPUBLIC ACT 4670, OTHERWISE KNOWN AS MAGNA CARTA FOR PUBLIC SCHOOL TEACHERS.

II

WHETHER OR NOT NON-COMPLIANCE WITH THE REQUIREMENTS OF REPUBLIC ACT NO. 4670 AS REGARDS THE COMPOSITION OF THE GRIEVANCE COMMITTEE IS VIOLATIVE OF THE DUE PROCESS OF LAW.

III

WHETHER OR NOT PRIVATE RESPONDENT CAROLINA DIZON HAS THE *LOCUS STANDI* TO FILE A MOTION FOR RECONSIDERATION.^[22]

In its comment on the petition, the Office of the Solicitor General (OSG) averred that Huertas was estopped from assailing the composition of the Grievance Committee, thus:

A party cannot invoke the jurisdiction of a court by voluntarily submitting a cause to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction. Petitioner cannot renounce the jurisdiction of the court *a quo* considering that he had earlier submitted to such jurisdiction. Estoppel by laches bars petitioner's attack on the jurisdiction of the investigating committee because he never raised the issue when he was being investigated.^[23]

On July 24, 2001, the CA rendered a decision setting aside Secretary Gonzalez's Resolutions dated July 23, 1999 and July 10, 2000, and reinstating Secretary Gloria's November 20, 1997 Resolution. The CA ruled that Dizon herself had the right to appeal or move for a reconsideration of the November 20, 1997 Resolution of Secretary Gloria as held by the *Court in Civil Service Commission v. Dacoycoy*.^[24] It rejected the argument of the OSG that a decision in administrative cases penalized by one month suspension or less shall be final under Section 47(2), Chapter 7, Subtitle A, Title I, Book V of E.O. No. 292. According to the CA, the petitioner's case does not fall within the ambit of E.O. No. 292 because "the root of the penalty is an illegally constituted investigating committee. As the old adage tells us 'it is a fruit of a poisonous tree.'"^[25]

The appellate court also ruled that the composition of the committee which investigated the administrative complaint against Huertas was not in accordance with Section 9 of Republic Act No. 4670, otherwise known as the *Magna Carta* for Public School Teachers; hence, the petitioner was deprived of his right to due

process.

However, upon motion for reconsideration^[26] filed by the OSG, to which Huertas filed his opposition,^[27] the CA reconsidered its Decision of July 24, 2001 and dismissed the petition for lack of merit on September 27, 2001. The *fallo* of the resolution reads:

WHEREFORE, the respondents' Motion for Reconsideration is hereby GRANTED. The Decision dated July 24, 2001, is hereby RECONSIDERED and SET ASIDE. The petition is hereby DISMISSED for lack of merit.

SO ORDERED.^[28]

The CA held that Huertas was barred from assailing the composition of the Grievance Committee and was proscribed from appealing the resolution of Regional Director Rosas to the Secretary of Education, Culture and Sports.

Huertas filed a motion for the reconsideration^[29] thereof which was denied by the CA.

Huertas, now the petitioner, comes to the Court via a petition for review on certiorari against respondents Dizon and the DECS Secretary, contending that:

I

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN THE INTERPRETATION/APPLICATION OF THE LAW AND IN THE APPRECIATION OF THE FACTS AND EVIDENCE PRESENTED.

II

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN FAILING TO CONSIDER THE NON-COMPLIANCE OF THE MANDATORY REQUIREMENTS OF REPUBLIC ACT 4670 AS REGARDS THE COMPOSITION OF THE GRIEVANCE COMMITTEE WHICH IS VIOLATIVE OF THE DUE PROCESS LAW.

III

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN FAILING TO CONSIDER THAT RESPONDENT CAROLINA DIZON HAS NO PERSONALITY TO FILE A MOTION FOR RECONSIDERATION.^[30]

As the first two issues are interrelated, the Court shall delve into and resolve them simultaneously.

The petitioner avers that an integral component of his right to due process is a tribunal vested with complete jurisdiction and so constituted as to afford a person charged administratively a reasonable guarantee of honesty as well as impartiality. The petitioner asserts that Section 9 of Republic Act No. 4670 enumerates those who should compose an investigating committee, and that under DECS Order No. 34, Series of 1999, noncompliance with the requirements of the said law would amount to a denial of due process. The petitioner avers that Atty. Manuel Ano was not a school superintendent of the division, and that the teacher's organization was not represented in the committee. Citing the ruling of this Court in *Fabella v. Court*