

EN BANC

[G.R. NO. 140079, March 31, 2005]

**AUGUSTO R. SAMALIO, PETITIONER, VS. COURT OF APPEALS,
CIVIL SERVICE COMMISSION, DEPARTMENT OF JUSTICE AND
BUREAU OF IMMIGRATION, RESPONDENTS.**

DECISION

CORONA, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the May 24, 1999 decision,^[1] as well as the September 1, 1999 resolution, of the Court of Appeals (CA) in CA-G.R. SP No. 48723 which in turn affirmed the November 26, 1997 resolution of the Civil Service Commission (CSC). The aforementioned CSC resolution upheld the August 30, 1996 1st Indorsement of then Justice Secretary Teofisto T. Guingona confirming the penalty of dismissal from service imposed by the Bureau of Immigration upon petitioner on the ground of dishonesty, oppression, misconduct and conduct grossly prejudicial to the best interest of the service in connection with his act of extorting money from Ms. Weng Sai Qin, a foreign national.

The facts, as found by the CA and adopted by petitioner himself, are as follows:

Petitioner Augusto R. Samalio was formerly an Intelligence Officer of the Bureau of Immigration and Deportation.

In Resolution No. 0-93-0224 dated February 4, 1993, the City Prosecutor's office of Pasay City recommended that petitioner Samalio be prosecuted for the crimes of Robbery and Violation of Section 46 of the Immigration Law before the Sandiganbayan under the following facts:

"x x x that on 2 February 1993, Ms. Weng Sai Qin arrived at the NAIA from Saipan. While waiting for her turn at the arrival immigration counter, her passport was examined by Immigration Officer Juliet Pajarillaga. Noting that Ms. Weng, a Chinese, was holding a Uruguayan passport, Ms. Pajarillaga suspected that the former's passport was fake. Ms. Weng was taken out of the queue and brought to Respondent who was the duty intelligence officer. Ms. Weng, who could only speak in Chinese, asked respondent by sign language that she wanted to meet a friend who was waiting at the NAIA arrival area. Respondent approved the request and accompanied Ms. Weng to the arrival area. Thereafter, Respondent, with Ms. Weng and her male friend in tow, returned to the immigration area. While inside the office of Respondent, Ms. Weng asked that her passport be returned. Sensing a demand for money in exchange for her passport, Ms. Weng flashed \$500.00 in front of Respondent. The money was grabbed by Respondent. Shortly, her passport was returned

ans [sic] she was allowed to leave. When Ms. Weng checked her passport later, she discovered that it did not bear an immigration arrival stamp. Thereafter, Ms. Weng complained against Respondent.”

In a later Indorsement communication dated February 9, 1993 to the Bureau of Immigration and Deportation (BID), former NAIA General Manager Gen. Guillermo G. Cunanan enclosed a copy of the aforesaid City Prosecutor’s Resolution. Reacting, then BID Commissioner, Zafiro L. Respicio, issued Personnel Order No. 93-179-93 commencing an administrative case against petitioner Augusto R. Samalio for Violation of CSMC No. 46, Rule 2, Section 1, for dishonesty, oppression, misconduct, disgraceful and immoral conduct, inefficiency and incompetence in the performance of official duties, violation of reasonable office rules and regulations and conduct prejudicial to the best interest of the service, requiring petitioner to submit his answer to the charges together with supporting statements and documents, and whether or not he elects a formal investigation if his answer is not considered satisfactory. In the same Personnel Order, Samalio was preventively suspended for a period of ninety (90) days as the charge sheet against him involves dishonesty, oppression and misconduct. Forthwith, petitioner attempted the lifting of his preventive suspension. It was struck down.

Later on, petitioner submitted an answer denying the charges and expressly electing a formal investigation if such answer be not found to be satisfactory. Attached thereto are the affidavits of his witnesses Rodrigo C. Pedrealba, Dante Aquino, Florencio B. Austria and Winston C. Vitan. The answer was found to be unsatisfactory so the case was set for formal hearing before the Board of Discipline of BID.

The case suffered several postponed hearings due to the requests and non-availability of the parties but mostly due to the absence of complainant’s witnesses until on September 7, 1993, respondent was allowed to file a motion to dismiss with the Special Prosecutor designated given time to comment thereon. When the dismissal motion was filed, assigned Special Prosecutor Edmund F. Macaraig interposed no objection thereto. Notwithstanding, the case was not dismissed and instead, the Special Prosecutor was given five (5) days to inform the Board whether or not he intends to present additional witnesses.

On December 16, 1993, the DID Commissioner issued Personnel Order No. 93-428 reorganizing the Board of Discipline and this case was assigned to a new Board presided by Atty. Kalaw. Subpoenas were again sent and hearings were scheduled several times before the new Board until on February 6, 1995, Special Prosecutor assigned, Edmund F. Macaraig, moved that Samalio’s Motion to Dismiss be denied and that the case be considered submitted for resolution based on the records. On February 16, 1995, the hearing officer denied Samalio’s Motion to Dismiss but granted his Comment/Manifestation explaining his absence during the February 6, 1995 hearing and requesting that the case be set anew on February 22, 1995.

Finally, on July 25, 1996, BID Acting Commissioner Ramon J. Liwag,

issued the decision finding Augusto R. Samalio guilty of the charges and was ordered dismissed from service.

In the 1st Indorsement dated August 30, 1996, former Justice Secretary Teofisto T. Guingona, Jr. confirmed the penalty of dismissal from service of Augusto R. Samalio. Soon after, the Motion for Reconsideration was denied in a Resolution dated June 2, 1997.

Guingona's decision was appealed to the Civil Service Commission which issued Resolution No. 974501 dated November 26, 1997 dismissing the appeal for lack of merit and affirming the decisions of Acting Commissioner Liwag and Secretary Guingona. Similarly, the attempt for a reconsideration was likewise dismissed in Civil Service Resolution No. 981925.

In the meantime, on June 13, 1994, during the pendency of the instant administrative case, Augusto R. Samalio was convicted (in Sandiganbayan Criminal Case No. 18679) of the crime of Robbery, as defined in Articles 293 and 294, paragraph 5 of the Revised Penal Code and was sentenced to suffer indeterminate penalty of Four (4) Months and One (1) Day of Arresto Mayor to Four (4) Years, Two (2) Months and Eleven (11) Days of Prision Correccional and to indemnify complainant Weng Sai Qin the amount of US \$500.00 and to pay the costs. Samalio did not appeal the conviction and instead applied for and was granted probation by the Sandiganbayan for two (2) years in an Order dated December 12, 1994.^[2] (Citations omitted)

Petitioner assailed before the CA, in a petition for review, the correctness and validity of CSC Resolution Nos. 974501 and 981925. The CA, however, dismissed the petition for review and subsequently denied the motion for reconsideration.

Petitioner now comes before us to challenge the CA decision dismissing his petition for review as well as the resolution denying his motion for reconsideration. Petitioner claims he was not accorded due process and the CA failed to consider the proper effects of his discharge under probation.

In support of his contention that he was deprived of due process, petitioner alleges that no witness or evidence was presented against him, that the CA erred in the interpretation of Section 47, Rule 130 of the Rules of Court and that there was no hearing conducted on his case.

Petitioner's contention is without merit.

The CSC decision and resolution which upheld the resolution of the Secretary of Justice confirming the decision of the Commissioner of the BID are supported by substantial evidence. The CSC, as well as the Secretary of Justice and the Commissioner of the BID, decided the case on the basis of the pleadings and papers submitted by the parties, and relied on the records of the proceedings taken. In particular, the decision was based on the criminal complaint filed by Weng Sai Qin against petitioner before the City Prosecutor's Office of Pasay City, as well as Resolution No. 0-93-0224 dated February 4, 1993 of the same office recommending the prosecution of petitioner at the Sandiganbayan for the crimes of robbery and

violation of Section 46 of the Immigration Law.

The CSC, as well as the Secretary of Justice, also took cognizance of the testimony of Weng Sai Qin in Sandiganbayan Criminal Case No. 18679 and the fact of petitioner's conviction in that case. Thus, there was ample evidence which satisfied the burden of proof required in administrative proceedings – substantial evidence or that quantum of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion^[3] to support the decision of the CSC.

The CSC and the Secretary of Justice did not err in applying Section 47, Rule 130 of the Revised Rules of Court, otherwise known as the "rule on former testimony," in deciding petitioner's administrative case. The provisions of the Rules of Court may be applied suppletorily to the rules of procedure of administrative bodies exercising quasi-judicial powers, unless otherwise provided by law or the rules of procedure of the administrative agency concerned. The Rules of Court, which are meant to secure to every litigant the adjective phase of due process of law, may be applied to proceedings before an administrative body with quasi-judicial powers in the absence of different and valid statutory or administrative provisions prescribing the ground rules for the investigation, hearing and adjudication of cases before it.^[4]

For Section 47, Rule 130 to apply, the following requisites must be satisfied: (a) the witness is dead or unable to testify; (b) his testimony or deposition was given in a former case or proceeding, judicial or administrative, between the same parties or those representing the same interests; (c) the former case involved the same subject as that in the present case, although on different causes of action; (d) the issue testified to by the witness in the former trial is the same issue involved in the present case and (e) the adverse party had an opportunity to cross-examine the witness in the former case.^[5]

In this case, Weng Sai Qin was unable to testify in the administrative proceedings before the BID because she left the country on February 6, 1993,^[6] or even before the administrative complaint against petitioner was instituted. Petitioner does not deny that the testimony of Weng Sai Qin was given in Sandiganbayan Criminal Case No. 18679, a case which sprang from the information filed pursuant to Resolution No. 0-93-0224 dated February 4, 1993 of the City Prosecutor's Office of Pasay City, the very same resolution used by Commissioner Respicio as basis for filing the administrative complaint. Hence, the issue testified to by Weng Sai Qin in Sandiganbayan Criminal Case No. 18679 was the same issue in the administrative case, that is, whether petitioner extorted money from Weng Sai Qin. Petitioner also had the opportunity to face and cross-examine his accuser Weng Sai Qin, and to defend and vindicate his cause before the Sandiganbayan. Clearly, all the requisites for the proper application of the rule on former testimony, as embodied in Section 47, Rule 130, were satisfied. Thus, the CSC and the Secretary of Justice committed no error when they applied it and took cognizance of the former testimony of Weng Sai Qin in Sandiganbayan Criminal Case No. 18679 where petitioner was convicted.

Petitioner contends that the CA, as well as the CSC and the Secretary of Justice, should not have applied Section 47, Rule 130 because there was failure to lay the basis or predicate for the rule. The argument is specious and deserves scant consideration. The records of this case reveal that even in the early stages of the proceedings before the Board of Discipline of the BID, Weng Sai Qin's departure