

FIRST DIVISION

[G.R. NO. 149999, August 12, 2005]

THE NATIONAL APPELLATE BOARD (NAB) OF THE NATIONAL POLICE COMMISSION (NAPOLCOM), PETITIONER, VS. P/INSP. JOHN A. MAMAUAG, SPO2 EUGENE ALMARIO, SPO4 ERLINDA GARCIA AND SPO1 VIVIAN FELIPE, RESPONDENTS.

D E C I S I O N

CARPIO, J.:

The Case

Before the Court is a petition for review^[1] assailing the 6 September 2001 Decision^[2] of the Court of Appeals. The Court of Appeals set aside the 3 July 1997 Resolution of Philippine National Police ("PNP") Chief Recaredo Sarmiento II ("PNP Chief Sarmiento"), the 3 March 2000 Decision and the 30 June 2000 Resolution, both of the National Appellate Board ("NAB") of the National Police Commission.

The Antecedent Facts

Very early in the morning of 2 March 1995, Nancy Gaspar ("Gaspar") and Proclyn Pacay ("Pacay") left the residence of Judge Adoracion G. Angeles ("Judge Angeles") in Quezon City. Gaspar and Pacay were both minors and were later classified as moderate or mild mental retardates by the Department of Social Welfare and Development ("DSWD"). Agnes Lucero ("Lucero") found Gaspar and Pacay wandering around the vicinity of the Philippine Rabbit bus terminal in Cubao. Gaspar and Pacay narrated to Lucero stories of maltreatment and non-payment of salary by Judge Angeles.

Around 4:00 a.m., Lucero brought Gaspar and Pacay to the Baler Police Station 2, Central Police District Command ("CPDC"), Quezon City. At the police station, desk officer SPO1 Jaime Billedo ("Billedo") recorded the girls' complaint in the police blotter. On Billedo's instruction, SPO1 Roberto C. Cariño ("Cariño") brought Gaspar and Pacay to the East Avenue Medical Center for the requisite medical examination. Later, the two girls were returned to the police station where Cariño interviewed them. Cariño's Initial Investigation Report was reviewed and signed by SPO2 Eugene V. Almario ("Almario") and approved by P/Insp. John A. Mamauag ("Mamauag"). Later, SPO1 Vivian M. Felipe ("Felipe") and SPO4 Erlinda L. Garcia ("Garcia") escorted Gaspar and Pacay to the DSWD. P/Insp. Roberto V. Ganas ("Ganas") signed the Letter of Turnover to the DSWD.

The incident drew the attention of the media and spawned several cases. One was a criminal case for child abuse under Republic Act No. 7610^[3] against Judge Angeles. Another was an administrative complaint for Grave Misconduct filed by Judge Angeles against Ganas, Mamauag, Almario, Cariño, Felipe and Garcia. Judge

Angeles later impleaded Billedo as additional respondent.

In her administrative complaint, Judge Angeles alleged:

1. On March 2, 1995, respondents Gantias, Almario and Mamauag submitted an Initial Investigation Report to the District Director, CPDC, and respondent Gantias turned over a Report to the DSWD merely on the basis of a verbal report of Agnes Lucero on Judge Reyes' alleged maltreatment of Nancy Gaspar and Proclyn Pacay "without getting the required sworn statements of the two (2) girls and Agnes Lucero";
2. While the two girls were under police custody, respondents found in the possession of Pacay several items of jewelry and clothing materials belonging to and stolen from complainant Judge Angeles. Complainant's witnesses, Dr. Sagradia Aldova, Oliva Angeles and Mary Ann Agustin requested the respondents to register in the police logbook the discovery of the stolen articles but to no avail;
3. Despite the insistent request of said witnesses and subsequently of the complainant that a report for qualified theft be entered in the police blotter, respondents maliciously refused to act upon the incident and conduct further investigation;
4. Respondent's bad faith and highly irregular conduct in handling the maltreatment charge against complainant was also manifested when respondents did not give her a chance to explain her side by not contacting her although her residence is just a few houses away from the police station;
5. Even before she was informed of the accusations against her, the police leaked the baseless maltreatment case against her as shown by the presence of so many people and members of the media as well as the Human Rights Commission personnel at the police station;
6. The fact that no case has yet been filed against her shows that the whole event was maliciously manipulated by her detractors to harass and malign complainant with the willing assistance of men in uniform.^[4]

The Inspectorate and Legal Affairs Division ("ILAD") of the CPDC investigated the administrative complaint. After its investigation, the ILAD recommended the dismissal of the charges. In a Resolution^[5] dated 10 April 1995, the CPDC District Director approved the recommendation and dismissed the complaint. Not satisfied with the outcome of her complaint, Judge Angeles moved for re-investigation of the case before PNP Chief Sarmiento.

The Ruling of the PNP Chief

In a Decision^[6] dated 7 June 1996, PNP Chief Sarmiento ruled as follows:

WHEREFORE, this Headquarters finds: Respondent[s] P/CINSP. ROBERTO GANIAS, SPO1 Jaime Billedo, and SPO1 Roberto Cariño guilty of Serious Neglect of Duty and orders their dismissal from the police service; P/INSP JOHN MAMAUAG and SPO2 Eugene Almario guilty of Less Serious

Neglect of Duty and orders that both of them be suspended from the police service for Ninety (90) days with forfeiture of pay; and SPO4 Erlinda Garcia and SPO1 Vivian Felipe exonerated of the charge for insufficiency of evidence.^[7]

Judge Angeles filed a Motion for Partial Reconsideration.^[8] In a Resolution^[9] dated 3 July 1997, PNP Chief Sarmiento modified his previous ruling and ordered the dismissal from the service of Mamauag, Almario, Garcia and Felipe ("Mamauag, et al.").

Mamauag, et al. forthwith filed a petition for *certiorari* and mandamus against PNP Chief Sarmiento, PNP Inspector General Jovencio Sales and Judge Angeles before the Regional Trial Court of Quezon City, Branch 101. In an Order^[10] dated 25 November 1997, the Regional Trial Court dismissed the petition for failure of petitioners to exhaust administrative remedies and for failure to show that respondents abused their discretion.

Mamauag, et al. then appealed the PNP Chief's Resolution before the NAB.

The Ruling of the National Appellate Board

In a Decision,^[11] dated 3 March 2000, the NAB dismissed the appeal for late filing and lack of merit. The NAB declared:

Appellants Mamauag, Almario, Garcia and Felipe, in seeking immediate judicial remedy by way of a Petition for Certiorari and Prohibition against appellee and the PNP dismissal authority even if they have not yet exhausted all administrative remedies available to them had in fact defaulted in their right to exercise such later option by omission of their own doing. The right to appeal is provided for by law and he who seeks to exercise that right must abide with the rules provided therefor.

The substantive rule regarding appeals from a decision of dismissal from the police service imposed by the Chief, PNP is found in Section 45 of RA 6975, which provides in part, thus:

"Section 45. Finality of Disciplinary Decision - "Provided, further, that the disciplinary action imposed by the Chief of the PNP involving ... **dismissal** may be appealed to the National Appellate Board **within ten (10) days from receipt thereof.**"

It was on a day certain between July 3 1997 (the date of the Resolution of dismissal) and July 18, 1997 (date of Petition for Certiorari and Prohibition) that Mamauag, et al. must have received a copy of aforesaid Resolution and from that same day, they had ten (10) days within which to file their appeal before the NAB had they chosen to exhaust administrative remedies. But they chose to avail of another remedy thereby effectively foreclosing their right of appeal to NAB in view of the lapse of the reglementary period for filing the same.

WHEREFORE, premises considered, the appeal of P/Insp. John Mamauag,

SPO2 Eugene Almario, SPO4 Erlinda Garcia and SPO1 Vivian Felipe is hereby DISMISSED for lack of merit.

SO ORDERED.^[12]

Mamauag, et al. filed a motion for reconsideration of the Decision but the NAB denied it in the NAB Resolution^[13] of 30 June 2000. Thus, Mamauag, et al. sought relief from the Court of Appeals.

The Ruling of the Court of Appeals

In its Decision of 6 September 2001, the Court of Appeals ruled:

WHEREFORE, in view of the foregoing, the Resolution of the PNP Chief Recaredo Sarmiento II dated 3 July 1997, having been rendered in excess of his jurisdiction is hereby **SET ASIDE** for being null and void. Accordingly, the **DECISION** and **RESOLUTION** made by the National Appellate Board dated 3 March 2000 and 30 June 2000, respectively, are also **SET ASIDE** for being null and void.

SO ORDERED.^[14]

In finding for Mamauag, et al., the Court of Appeals explained:

First of all, the said provision expressly states that "*the disciplinary action imposed upon a member of the PNP shall be final and executory.*" Nowhere does the said provision grant any party to move for a reconsideration of any disciplinary action imposed as the remedy provided thereunder is an appeal of either party of the decision to the National Appellate Board, if such **involves a demotion or dismissal** of a member of the PNP. In fact, since the original decision only suspended petitioners Mamauag and Almario from service and even exonerated Felipe and Garcia, the said decision is not even subject to any appeal. The said decision clearly **does not involve any demotion nor dismissal which could properly be appealed to the NAB.**

Moreover, even under the assumption that a motion for reconsideration is allowed, the one filed by Judge Angeles should not have merited any consideration from the PNP Chief. Judge Angeles did not have the personality to make such a motion. While **Sec. 45 of R.A. 6975** does not clearly provide who may appeal (or for that matter make any motion for reconsideration) from the decision of the PNP Chief, the last clause mentions "*either **party** may appeal with the Secretary*" and by the doctrine of necessary implication this extends to said decision of the PNP Chief.

It is elementary that in an administrative case, **the complainant is a mere witness. No private interest is involved in an administrative case as the offense committed is against the government.** As held by the Supreme Court in *Paredes vs. Civil Service Commission*:

"As correctly ruled by private respondent, petitioner Paredes the complainant is not the party adversely affected by the

decision so that she has no legal personality to interpose an appeal to the Civil Service Commission. **In an administrative case, the complainant is a mere witness** (GONZALO VS. D. RODA, 64 SCRA 120). **Even if she is the Head of Administrative Services Department of the HSRC as a complainant she is merely a witness for the government in an administrative case. No private interest is involved in an administrative case as the offense is committed against the government."** (*Emphasis supplied*)

Obviously, Judge Angeles has no interest which would be directly and materially affected by the decision rendered by the PNP Chief. Not being a proper party to the said case ↓ as she is only a mere witness ↓ then her motion should not have served as a ground for the re-evaluation of the administrative case against the petitioners which resulted into a modification of the PNP Chief's earlier decision.

On this score, We find the latest ruling of the Supreme Court on this matter:

"Subsequently, the Court of Appeals reversed the decision of the Civil service Commission and held the respondent not guilty of nepotism. **Who may appeal the decision of the Court of Appeals to the Supreme Court? Certainly not the responden[t] who was declared not guilty of the charge. Nor the complainant George P. Suan who was merely a witness for the government. Consequently, the Civil Service Commission has become the party adversely affected by such ruling, which seriously prejudices the civil service system. Hence, as an aggrieved party, it may appeal the decision of the Court of Appeals to the Supreme Court."** (*Emphasis supplied*)

Applying this to the present case by analogy, had the original judgment been rendered in favor of the petitioners, it would be the Philippine National Police which would be adversely affected and thus would be the proper party to appeal such a judgment. Corollary to this, where the original judgment is adverse to the petitioners, it is they who could properly appeal the same. In either case, the complainant Judge Angeles certainly has no legal personality to move for a reconsideration of the original decision handed down by the PNP Chief.

In view of the foregoing, this Court can only rule, as We do now, that the appealed resolution (dated 3 July 1997) was made in excess of the PNP Chief's jurisdiction rendering it null and void. Hence, upon the basic legal precept that a void decision or resolution can never attain finality, NAB should have ruled accordingly on the matter. Finding that it did not, the Court's remedial power must perforce be exercised to rectify the matter before Us.^[15]

Hence, the NAB's recourse to this Court.