

EN BANC

[G.R. No. 160657, June 30, 2004]

CIVIL SERVICE COMMISSION, PETITIONER, VS. NIMFA P. ASENSI, RESPONDENT,

R E S O L U T I O N

TINGA, J.:

Respondent Nimfa Asensi was ordered dismissed by petitioner Civil Service Commission ("CSC") from her position as Revenue District Officer of the Bureau of Internal Revenue in Lucena City. Her dismissal came after an investigation revealed that she had falsified entries in her Personal Data Sheet (PDS) relative to her educational background.^[1] Aggrieved, respondent filed a petition for certiorari with the Court of Appeals, assailing the CSC Resolution ordering her dismissal.

On 9 July 2003, the Court of Appeals' Fourth Division promulgated a *Decision*^[2] holding that the dismissal of respondent was not warranted, and setting aside the assailed resolution of the CSC.^[3] Acting upon the CSC's motion for reconsideration, the Court of Appeals denied it in a Resolution dated 29 October 2003.

The Office of the Solicitor General ("OSG") received a copy of the 29 October 2003 Resolution on 7 November 2003. Having until 22 November 2003 to file a petition for review on certiorari before this Court, on 21 November 2003, the OSG filed a motion for extension until 22 December 2003 to file the petition for review.^[4] This Court granted the OSG's motion in a *Resolution* dated 9 December 2003.^[5]

Apparently, the CSC remained in the dark as to the legal moves made by its counsel, the OSG. On 25 November 2003, the CSC, filed a *Manifestation To File Its Own Petition for Review*.^[6] This Manifestation was signed by three lawyers from the Office of Legal Affairs of the CSC.^[7]

On 27 November 2003, the CSC, through its Office of Legal Affairs, filed with this Court a *Petition for Certiorari* under Rule 65, assailing the 9 July 2003 Decision of the Court of Appeals, which it received on 30 July 2003.^[8] In a *Resolution* dated 13 January 2004, the Court, without giving due course to the petition, directed the respondent to file her comment thereon.^[9]

The OSG was surprised by the twin legal moves taken by the CSC without their consent and participation. On 22 December 2003, the OSG filed a *Manifestation and Motion* stating that considering the CSC's manifested intention to file its own petition, the OSG had no recourse but to withdraw its 21 November 2003 *Motion for Extension* and allow the CSC to actively pursue its own case.^[10] We required the CSC to comment on the OSG's Manifestation and Motion.^[11] In their Comment filed

on 27 April 2004, the CSC asserted that Under Section 16 (3), Chapter 3, Subtitle A, Title I, Book V of the Administrative Code of 1987, its Office for Legal Affairs was authorized to represent the CSC "before any Court or tribunal".^[12]

In the meantime, respondent filed her Comment on the *Petition for Certiorari*.^[13] She prayed for the immediate dismissal of the petition, as the proper remedy for the CSC was not the special civil action for certiorari under Rule 65, but a petition for review under Rule 45. Moreover, since the period for filing a petition for review had already elapsed, according to the respondent, the CSC had deliberately resorted to the special civil action.

We agree with the respondent. So, we dismiss the petition. There is little need to elaborate on the reasons, which are after all, elementary in procedural law. The special civil action for certiorari lies only to correct acts rendered without jurisdiction, in excess of jurisdiction, or with grave abuse of discretion.^[14] The grave abuse of discretion imputed to the Court of Appeals was its finding that respondent was not guilty of the charges against her, a charge that if true, would only constitute an error in law. Certiorari will issue only to correct errors of jurisdiction, not errors of procedure or mistakes in the findings or conclusions of the lower court. As long as a court acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than errors of judgment which are reviewable by timely appeal and not by special civil action for certiorari.^[15] Neither is certiorari warranted if there is another plain, speedy and adequate remedy in the ordinary course of law.^[16] The remedy to the adverse decision of the Court of Appeals in this case is a petition for review under Rule 45.^[17]

The OSG, counsel of record for the CSC, well understood the proper procedure for appeal, and undertook the initiatory step for a petition for review by filing a *Motion for Extension of Time* to file such petition.^[18] It is unclear if the CSC had known about the OSG's *Motion*, though the answer to that question does not really matter to the disposition of this case. The Court granted the OSG's *Motion*, allowing the OSG to file its Petition until 22 December 2003. The OSG, being the designated legal representative of the Government and its instrumentalities, has a long history of association with this Court and acquired in the process an awesome wealth of experience in appellate practice. Had the CSC relied on its counsel's expertise, it would have been spared of the needless burden of salvaging its petition from outright dismissal and, of course, the inevitable ignominy which such dismissal entails.

Instead, the CSC, using its own lawyers, filed the wrong mode of review. The CSC's assertion as to the capacity of its Office of Legal Affairs to appear before this Court is of dubious legal basis. A similar issue was raised, albeit pertaining to the legal officers of the Bureau of Internal Revenue, in the Court's *Resolution in Commissioner of Internal Revenue v. La Suerte Cigar and Cigarette Factory*.^[19] The BIR therein asserted that on the basis of Section 220 of the Tax Reform Act of 1997, its legal officers were allowed to institute civil and criminal actions and proceedings in behalf of the government. The Court disagreed, saying that it is the Solicitor General who has the primary responsibility to appear for the government in appellate proceedings,^[20] it being the principal law officer and legal defender of the government.^[21] The Court also cited with approval, the exception enunciated in