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FIRST DIVISION

[G.R. No. 129132, July 08, 1998]

ISABELITA VITAL-GOZON, PETITIONER, VS. HONORABLE COURT OF APPEALS AND ALEJANDRO DE LA FUENTE, RESPONDENTS.

D E C I S I O N

DAVIDE, JR., J.:*

This is a sequel to our decision[1] of 5 August 1992 in G.R. No. 101428, entitled Isabelita Vital-Gozon v. The Honorable Court of Appeals, et al., which held that the Court of Appeals had jurisdiction, in a special civil action for mandamus against a public officer (docketed therein as CA-G.R. SP No. 16438 and entitled Dr. Alejandro S. de la Fuente v. Dr. Isabelita Vital-Gozon, et al.), to take cognizance of the claim for damages against respondent public officer.

Specifically, the instant petition seeks to reverse the Resolution of 7 May 1997[2] of respondent Court of Appeals in CA-G.R. SP No. 16438 awarding to petitioner below, now private respondent, moral and exemplary damages and attorney's fees after hearing the evidence thereon sometime after this Court's decision in G.R. No. 101428 became final.

The factual antecedents then, as found by us in G.R. No. 101428, must be restated, thus:

> In the early months of 1987 -- and pursuant to Executive Order No. 119 issued on January 30, 1987 by President Corazon C. Aquino -- reorganization of the various offices of the Ministry of Health commenced; existing offices were abolished, transfers of personnel effected.
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> At the time of the reorganization, Dr. Alejandro S. de la Fuente was the Chief of Clinics of the National Children's Hospital, having been appointed to that position on December 20, 1978. Prior thereto, he occupied the post of Medical Specialist II, a position to which he was promoted in 1977 after serving as Medical Specialist I of the same hospital for six (6) years (since 1971).
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> On February 4, 1988 Dr. de la Fuente received notice from the Department of Health that he would be re-appointed "Medical Specialist II." Considering this to be a demotion by no less than two ranks from his post as Chief of Clinics, Dr. de la Fuente filed a protest with the DOH Reorganization Board. When his protest was ignored, he brought his case to the Civil Service Commission where it was docketed as CSC Case No. 4. In the meantime "the duties and responsibilities pertaining to the position of Chief of Clinics were turned over to and were allowed to be

exercised by Dr. Jose D. Merencilla, Jr.”

Dr. de la Fuente’s case was decided by the Civil Service Commission in a Resolution dated August 9, 1988. In that Resolution, the Commission made the following conclusion and disposition, to wit:

“xxx (The Commission) declares the demotion/transfer of appellant dela Fuente, Jr. from Chief of Clinics to Medical Specialist II as null and void: hence, illegal. Considering further that since the National Children's Hospital was not abolished and the positions therein remained intact although the title or the position of Chief of Clinics was changed to 'Chief of Medical Professional Staff' with substantially the same functions and responsibilities, the Commission hereby orders that:

1. Appellant dela Fuente, Jr. be retained or considered as never having relinquished his position of Chief of Clinics (now Chief of Medical Professional Staff) without loss of seniority rights; and

2. He be paid back salaries, transportation, representation and housing allowances and such other benefits withheld from him from the date of his illegal demotion/transfer.”

No motion for reconsideration of this Resolution was ever submitted nor appeal therefrom essayed to the Supreme Court, within the thirty-day period prescribed therefor by the Constitution. Consequently, the resolution became final, on September 21, 1988.

De la Fuente thereupon sent two (2) letters to Dr. Vital-Gozon, the Medical Center Chief of the National Children’s Hospital, demanding implementation of the Commission's decision. Dr. Vital-Gozon referred “de la Fuente’s claims to the Department of Health Assistant Secretary for Legal Affairs for appropriate advice and/or action xxx (She did this allegedly because, according to the Solicitor General, she was) unaware when and how a CSC Resolution becomes final and executory, whether such Resolution had in fact become final and executory and whether the DOH Legal Department would officially assail the mentioned Resolution.” But she did not answer Dr. de la Fuente’s letters, not even to inform him of the referral thereof to the Assistant Secretary. She chose simply to await “legal guidance from the DOH Legal Department.” On the other hand, no one in the DOH Legal Department bothered to reply to Dr. de la Fuente, or to take steps to comply or otherwise advise compliance, with the final and executory Resolution of the Civil Service Commission. In fact, de la Fuente claims that Vital-Gozon had “actually threatened to stop paying xxx (his) salary and allowances on the pretext that he has as yet no 'approved' appointment even as ‘Medical Specialist II’ x x x.”

Three months having elapsed without any word from Vital-Gozon or anyone in her behalf, or any indication whatever that the CSC Resolution of August 9, 1988 would be obeyed, and apprehensive that the funds to cover the salaries and allowances otherwise due him would revert to the

General Fund, Dr. de la Fuente repaired to the Civil Service Commission and asked it to enforce its judgment. He was however "told to file in court a petition for mandamus because of the belief that the Commission had no coercive powers -- unlike a court -- to enforce its final decisions/resolutions."

So he instituted in the Court of Appeals on December 28, 1988 an action of "mandamus and damages with preliminary injunction" to compel Vital-Gozon, and the Administrative Officer, Budget Officer and Cashier of the NCH to comply with the final and executory resolution of the Civil Service Commission. He prayed for the following specific reliefs:

"(1) (That) xxx a temporary restraining order be issued immediately, ordering the principal and other respondents to revert the funds of the NCH corresponding to the amounts necessary to implement the final resolution of the CSC in CSC Case No. 4 in favor of herein petitioner, Dr. Alejandro S. de la Fuente, Jr., and to pay such sums which have accrued and due and payable as of the date of said order;

(2) After hearing on the prayer for preliminary injunction, that the restraining order be converted to a writ of preliminary injunction; and that a writ of preliminary mandatory injunction be issued ordering principal respondent and the other respondents to implement in full the said final resolution; and

(3) That, after hearing on the merits of the petition, that judgment be rendered seeking (sic) permanent writs issued and that principal respondent be ordered and commanded to comply with and implement the said final resolution without further delay; and, furthermore, that the principal respondent be ordered to pay to the petitioner the sums of P100,000.00 and P20,000.00 as moral and exemplary damages, and P10,000.00 for litigation expenses and attorney's fees.

x x x

The Court of Appeals required the respondents to answer. It also issued a temporary restraining order as prayed for, and required the respondents to show cause why it should not be converted to a writ of preliminary injunction. The record shows that the respondents prayed for and were granted an extension of fifteen (15) days to file their answer "through counsel, who," as the Court of Appeals was later to point out, "did not bother to indicate his address, thus notice was sent to him through the individual respondents xxx (However, no) answer was filed; neither was there any show cause [sic] against a writ of preliminary injunction." It was a certain Atty. Jose Fabia who appeared in Vital-Gozon's behalf.

About a month afterwards, de la Fuente filed with the same Court a "Supplemental/Amended Petition" dated February 2, 1989. The second petition described as one for "quo warranto" aside from "mandamus", added three respondents including Dr. Jose Merencilla, Jr.; and alleged inter alia that he (de la Fuente) had "clear title" to the position in question [by] virtue of the final and executory judgment of the Civil

Service Commission; that even after the Commission's judgment had become final and executory and been communicated to Vital-Gozon, the latter allowed "Dr. Merencilla, Jr. as 'OIC Professional Service' to further usurp, intrude into and unlawfully hold and exercise the public office/position of petitioner (under a duly approved permanent appointment as 'Chief of Clinics' since 1978). De la Fuente thus prayed, additionally, for judgment:

"(a) Declaring that principal respondent Dr. Jose D. Merencilla, Jr. is not legally entitled to the office of 'Chief of Clinics' (now retitled/known as 'Chief of Medical Professional Staff,' NCH), ousting him therefrom and ordering said respondent to immediately cease and desist from further performing as 'OIC Professional Service' any and all duties and responsibilities of the said office; (and)

(b) Declaring that the petitioner, Dr. Alejandro S. de la Fuente, Jr., is the lawful or de jure Chief of Clinics (now known as 'Chief of the Medical Professional Staff' and placing him in the possession of said office/position, without the need of reappointment or new appointment as held by the Civil Service Commission in its resolution of August 9, 1988, in CSC Case No. 4.

xxx."

Copy of the "Supplemental/Amended Petition" was sent to "Atty. Jose A. Favia, Counsel for Respondents c/o Dr. Ma. Isabelita Vital-Gozon, etc., National Children's Hospital, E. Rodriguez Ave., Quezon City (Atty. Fabia's address not being indicated or mentioned in his motion for Extension of Time)."

Again the Court of Appeals required answer of the respondents. Again, none was filed. The petitions were consequently "resolved on the basis of their allegations and the annexes." The Appellate Court promulgated its judgment on June 9, 1989. It held that --

"The question of whether petitioner may be divested of his position as Chief of Clinics by the expedient of having him appointed to another, lower position is no longer an issue. It ceased to be such when the resolution in CSC Case No. 4 became final. The said resolution is explicit in its mandate; petitioner was declared the lawful and de jure Chief of Clinics (Chief of the Medical Professional Staff) of the National Children's Hospital, and by this token, respondent Dr. Jose D. Merencilla, Jr. is not legally entitled to the office. Respondents, particularly Dr. Isabelita Vital-Gozon, had no discretion or choice on the matter; the resolution had to be complied with. It was ill-advised of principal respondent, and violative of the rule of law, that the resolution has not been obeyed or implemented."

and accordingly ordered –

"xxx respondents, particularly Dr. Isabelita Vital-Gozon, xxx to forthwith comply with, obey and implement the resolution in CSC Case No. 4 (and)

xxx Dr. Jose D. Merencilla, Jr., who is not entitled to the office, xx to immediately cease and desist from further performing and acting as OIC Professional Service."

But de la Fuente's prayer for damages -- founded essentially on the refusal of Gozon, et al. to obey the final and executory judgment of the Civil Service Commission, which thus compelled him to litigate anew in a different forum -- was denied by the Court of Appeals on the ground that the "petitions (for mandamus) are not the vehicle nor is the Court the forum for xxx (said) claim of damages."

Gozon acknowledged in writing that she received a copy of the Appellate Tribunal's Decision of June 9, 1989 on June 15, 1989. Respondent de la Fuente acknowledged receipt of his own copy on June 15, 1989. Neither Vital-Gozon nor her co-party, Dr. Merencilla, Jr., moved for reconsideration of, or attempted to appeal the decision.

It was de la Fuente who sought reconsideration of the judgment, by motion filed through new counsel, Atty. Ceferino Gaddi. He insisted that the Appellate Court had competence to award damages in a mandamus action. He argued that while such a claim for damages might not have been proper in a mandamus proceeding in the Appellate Court "before the enactment of B.P. Blg. 129 because the Court of Appeals had authority to issue such writs only 'in aid of its appellate jurisdiction,' " the situation was changed by said BP 129 in virtue of which three levels of courts -- the Supreme Court, the Regional Trial Court, and the Court of Appeals -- were conferred concurrent original jurisdiction to issue said writs, and the Court of Appeals was given power to conduct hearings and receive evidence to resolve factual issues. To require him to separately litigate the matter of damages, he continued, would lead to that multiplicity of suits which is abhorred by the law.

While his motion for reconsideration was pending, de la Fuente sought to enforce the judgment of the Court of Appeals of June 9, 1989 -- directing his reinstatement pursuant to the Civil Service Commission's Resolution of August 9, 1988, supra. He filed on July 4, 1989 a "Motion for Execution," alleging that the judgment of June 9, 1989 had become final and executory for failure of Gozon, et al. -- served with notice thereof on June 16, 1989 -- to move for its reconsideration or elevate the same to the Supreme Court. His motion was granted by the Court of Appeals in a Resolution dated July 7, 1989, reading as follows:

"The decision of June 9, 1989 having become final and executory, as prayed for, let the writ of execution issue forthwith."

The corresponding writ of execution issued on July 13, 1989, on the invoked authority of Section 9, Rule 39. The writ quoted the dispositive portion of the judgment of June 9, 1989, including, as the Solicitor General's Office points out, the second paragraph to the effect that the petitions "are not the vehicle nor is the Court the forum for the claim of damages; (hence,) the prayer therefor is denied."