

THIRD DIVISION

[G.R. No. 110379, November 28, 1997]

HON. ARMAND FABELLA, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF EDUCATION, CULTURE AND SPORTS; DR. NILO ROSAS, IN HIS CAPACITY AS REGIONAL DIRECTOR, DECS-NCR; DR. BIENVENIDO ICASIANO, IN HIS CAPACITY AS THE SUPERINTENDENT OF THE QUEZON CITY SCHOOLS AND DIVISION; ALMA BELLA O. BAUTISTA, AURORA C. VALENZUELA AND TERESITA V. DIMAGMALIW, PETITIONERS, VS. THE COURT OF APPEALS, ROSARITO A. SEPTIMO, ERLINDA B. DE LEON, CLARISSA T. DIMAANO, WILFREDO N. BACANI, MARINA R. VIVAR, VICTORIA S. UBALDO, JENNIE L. DOGWE, NORMA L. RONGCALES, EDITA C. SEPTIMO, TERESITA E. EVANGELISTA, CATALINA R. FRAGANTE, REBECCA D. BAGDOG, MARILYNNA C. KU, MARISSA M. SAMSON, HENEDINA B. CARILLO, NICASIO C. BRAVO, RUTH F. LACANILAO, MIRASOL C. BALIGOD, FELISA S. VILLACRUEL, MA. VIOLETA ELIZABETH Y. HERNANDEZ, ANTONIO C. OCAMPO, ADRIANO S. VALENCIA AND ELEUTERIO S. VARGAS, RESPONDENTS.
D E C I S I O N

PANGANIBAN, J.:

Due process of law requires notice and hearing. Hearing, on the other hand, presupposes a competent and impartial tribunal. The right to be heard and, ultimately, the right to due process of law lose meaning in the absence of an independent, competent and impartial tribunal.

Statement of the Case

This *principium* is explained by this Court as it resolves this petition for review on certiorari assailing the May 21, 1993 Decision^[1] of the Court of Appeals^[2] in CA-G.R. SP No. 29107 which affirmed the trial court's decision,^[3] as follows:

"WHEREFORE, the decision appealed from is AFFIRMED and the appeal is DISMISSED.

The Hon. Armand Fabella is hereby ORDERED substituted as respondent-appellant in place of former Secretary Isidro Cariño and henceforth this fact should be reflected in the title of this case.

SO ORDERED."^[4]

The Antecedent Facts

The facts, as found by Respondent Court, are as follows:

“On September 17, 1990, then DECS Secretary Cariño issued a return-to-work order to all public school teachers who had participated in talk-outs and strikes on various dates during the period September 26, 1990 to October 18, 1990. The mass action had been staged to demand payment of 13th month differentials, clothing allowances and passage of a debt-cap bill in Congress, among other things.

On October 18, 1990, Secretary Cariño filed administrative cases against herein petitioner-appellees, who are teachers of the Mandaluyong High School. The charge sheets required petitioner-appellees to explain in writing why they should not be punished for having taken part in the mass action in violation of civil service laws and regulations, to wit:

1. grave misconduct;
2. gross neglect of duty;
3. gross violation of Civil Service Law and rules on reasonable office regulations;
4. refusal to perform official duty;
5. conduct prejudicial to the best interest of the service;
6. absence without leave (AWOL)

At the same time, Secretary Cariño ordered petitioner-appellee to be placed under preventive suspension.

The charges were subsequently amended by DECS-NCR Regional Director Nilo Rosas on November 7, 1990 to include the specific dates when petitioner-appellees allegedly took part in the strike.

Administrative hearings started on December 20, 1990. Petitioner-appellees' counsel objected to the procedure adopted by the committee and demanded that he be furnished a copy of the guidelines adopted by the committee for the investigation and imposition of penalties. As he received no response from the committee, counsel walked out. Later, however, counsel, was able to obtain a copy of the guidelines.

On April 10, 1991, the teachers filed a an injunctive suit (Civil Case No. 60675) with the Regional Trial Court in Quezon City, charging the committee appointed by Secretary Cariño with fraud and deceit and praying that it be stopped from further investigating them and from rendering any decision in the administrative case. However, the trial court denied them a restraining order.

They then amended their complaint and made it one for certiorari and mandamus. They alleged that the investigating committee was acting with grave abuse of discretion because its guidelines for investigation place the burden of proof on them

by requiring them to prove their innocence instead of requiring Secretary Cariño and his staff to adduce evidence to prove the charges against the teachers.

On May 30, 1991, petitioner-appellee Adriano S. Valencia of the Ramon Magsaysay High School filed a motion to intervene, alleging that he was in the same situation as petitioners since he had likewise been charged and preventively suspended by respondent-appellant Cariño for the same grounds as the other petitioner-appellees and made to shoulder the burden of proving his innocence under the committee's guidelines. The trial court granted his motion on June 3, 1991 and allowed him to intervene.

On June 11, 1991, the Solicitor General answered the petitioner for certiorari and mandamus in behalf of respondent DECS Secretary. In the main he contended that, in accordance with the doctrine of primary resort, the trial court should not interfere in the administrative proceedings.

The Solicitor General also asked the trial court to reconsider its order of June 3, 1991, allowing petitioner-appellee Adriano S. Valencia to intervene in the case.

Meanwhile, the DECS investigating committee rendered a decision on August 6, 1991, finding the petitioner-appellees guilty, as charged and ordering their immediate dismissal.

On August 15, 1991, the trial court dismissed the petition for certiorari and mandamus for lack of merit. Petitioner-appellees moved for a reconsideration, but their motion was denied on September 11, 1991.

The teachers then filed a petition for certiorari with the Supreme Court which, on February 18, 1992, issued a resolution en banc declaring void the trial court's order of dismissal and reinstating petitioner-appellees' action, even as it ordered the latter's reinstatement pending decision of their case.

Accordingly, on March 25, 1992, the trial court set the case for hearing. June 8, 1992, it issued a pre-trial order which reads:

"As prayed for by Solicitor Bernard Hernandez, let this case be set for pre-trial conference on June 17, 1992 at 1:30 p.m., so as to expedite the proceedings hereof. In which case, DECS Secretary Isidro Cariño, as the principal respondent, is hereby ordered to PERSONALLY APPEAR before this Court on said date and time, with a warning that should he fail to show up on said date, the Court will declare him as IN DEFAULT. Stated otherwise, for the said Pre-Trial Conference, the Court will not recognize any representative of his."

By agreement of the parties, the trial conference was reset on June 26, 1992. However, Secretary Cariño failed to appear in court on the date set. It was explained that he had to attend a conference in Maragondon, Cavite. Instead, he was represented by Atty. Reno Capinpin, while the other respondents were represented by Atty. Jocelyn Pili. But the court just the same declared them as in default. The Solicitor General moved for a reconsideration, reiterating that Cariño could not personally come on June 26, 1992 because of prior commitment in Cavite. It was pointed out that Cariño was represented by Atty. Reno Capinpin, while the other

respondents were represented by Atty. Jocelyn Pili, both of the DECS-NCR and that both had special powers of attorney. But the Solicitor General's motion for reconsideration was denied by the trial court. In its order of July 15, 1992, the court stated:

"The "Motion For Reconsideration" dated July 3, 1992 filed by the respondents thru counsel, is hereby DENIED for lack of merit. It appears too obvious that respondents simply did not want to comply with the lawful orders of the Court.

The respondents having lost their standing in Court, the "Manifestation and Motion," dated July 3, 1992 filed by the Office of the Solicitor General is hereby DENIED due course.

SO ORDERED."

On July 3, 1992, the Solicitor General informed the trial court that Cariño had ceased to be DECS Secretary and asked for his substitution. But the court failed to act on his motion.

The hearing of the case was thereafter conducted ex parte with only the teachers allowed to present their evidence.

On August 10, 1992, the trial court rendered a decision, in which it stated:

"The Court is in full accord with petitioners' contention that Rep. Act No. 4670 otherwise known as the "Magna Carta for Public School Teachers" is the primary law that governs the conduct of investigation in administrative cases filed against public school teachers, with Pres. Decree No. 807 as its supplemental law. Respondents erred in believing and contending that Rep. Act. No. 4670 has already been superseded by the applicable provisions of Pres. Decree No. 807 and Exec. Order No. 292. Under the Rules of Statutory Construction, a special law, Rep. Act. No. 4670 in the case at bar, is not regarded as having been replaced by a general law, Pres. Decree No. 807, unless the intent to repeal or alter the same is manifest. A perusal of Pres. Decree No. 807 reveals no such intention exists, hence, Rep. Act No. 4670 stands. In the event that there is conflict between a special and a general law, the former shall prevail since it evidences the legislator's intent more clearly than that of the general statute and must be taken as an exception to the General Act. The provision of Rep. Act No. 4670 therefore prevails over Pres. Decree No. 807 in the composition and selection of the members of the investigating committee. Consequently, the committee tasked to investigate the charges filed against petitioners was illegally constituted, their composition and appointment being violative of Sec. 9 of Rep. Act. No. 4670 hence all acts done by said body possess no legal color whatsoever.

Anent petitioners' claim that their dismissal was effected without any formal investigation, the Court, after consideration of the circumstances surrounding the case, finds such claim meritorious. Although it cannot be gain said that respondents have a cause of action against the petitioner, the same is not sufficient reason to detract from the necessity of basic

fair play. The manner of dismissal of the teachers is tainted with illegality. It is a dismissal without due process. While there was a semblance of investigation conducted by the respondents their intention to dismiss petitioners was already manifest when it adopted a procedure provided for by law, by shifting the burden of proof to the petitioners, knowing fully well that the teachers would boycott the proceedings thereby giving them cause to render judgment ex-parte.

The DISMISSAL therefore of the teachers is not justified, it being arbitrary and violative of the teacher's right to due process. Due process must be observed in dismissing the teachers because it affects not only their position but also their means of livelihood.

WHEREFORE, premises considered, the present petition is hereby GRANTED and all the questioned orders/decisions of the respondents are hereby declared NULL and VOID and are hereby SET ASIDE.

The reinstatement of all the petitioners to their former positions without loss of seniority and promotional rights is hereby ORDERED.

The payment, if any, of all the petitioners' back salaries, allowances, bonuses, and other benefits and emoluments which may have accrued to them during the entire period of their preventive suspension and/or dismissal from the service is hereby likewise ORDERED.

SO ORDERED."^[5]

From this adverse decision of the trial court, former DECS Secretary Isidro Cariño filed an appeal with the Court of Appeals raising the following grounds:

"I. The trial court seriously erred in declaring appellants as in default.

II. The trial court seriously erred in not ordering the proper substitution of parties.

III. The trial court seriously erred in holding that R.A. No. 4670, otherwise known as 'Magna Carta for Public School Teachers', should govern the conduct of the investigations conducted.

IV. The trial court seriously erred in ruling that the dismissal of the teachers are without due process."^[6]

As mentioned earlier, the Court of Appeals affirmed the RTC decision, holding in the main that private respondents were denied due process in the administrative proceedings instituted against them.

Hence, this petition for review."^[7]

The Issues

Before us, petitioners raise the following issues: