

# FIRST DIVISION

[ G.R. No. 230355, March 18, 2021 ]

**SONIA O. MAHINAY, PETITIONER, VS. COURT OF APPEALS AND  
ALMA J. GENOTIVA, RESPONDENTS.**

## DECISION

**CARANDANG, J.:**

This is a Petition for *Certiorari*<sup>[1]</sup> assailing the Resolutions dated April 13, 2016<sup>[2]</sup> and November 25, 2016<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 130857 dismissing the petition for review filed by Sonia O. Mahinay (petitioner) for failure to attach several documents in her petition in violation of Section 6(c), Rule 43 of the Revised Rules of Court.

### Antecedents

In a Letter-Complaint<sup>[4]</sup> dated April 14, 2010, private respondent Alma J. Genotiva (private respondent) filed a complaint before the Civil Service Commission Regional Office No. VIII (CSCRO VIII) against several employees of the Professional Regulation Commission (PRC) Tacloban Office, including petitioner, for conflict of interest, grave abuse of authority, dishonesty and violation of graft and corrupt practices and the Anti-Red Tape Act.<sup>[5]</sup>

Private respondent alleged that several employees of PRC Tacloban Office, who were also officers and members of the PRC Employees Multi Purpose Cooperative (PREMPC), particularly Jenevieve Villasin (Professional Regulation Assistant), Maria Evelyn D. Larraga (Professional Regulation Assistant), petitioner (Professional Regulation Officer II), Elizabeth S. Baronda (Administrative Assistant), Mahalina Duroy (contractual), Trinidad Rebato (contractual), and Allan W. Booc (contractual) committed acts constituting abuse of office by taking PRC property and selling the same for their personal gain.<sup>[6]</sup>

According to her complaint, PREMPC, a cooperative formed by some of the employees of the PRC, operates inside the premises of PRC Tacloban Office. It provides photocopying services and sells mailing envelopes, mail stamps and documentary stamps to PRC clients. On several instances, the above-mentioned employees left their posts during office hours, took PRC forms (renewal, application for examination and oath forms), documentary stamps, and window envelopes with mailing stamps from PRC office and sent them to PREMPC to be sold to the latter's customers.<sup>[7]</sup>

On July 29, 2010, CSCRO VIII issued a Formal Charge<sup>[8]</sup> against petitioner finding a prima facie case for the administrative offense of Grave Misconduct, which reads:

Ms. Sonia Mahinay left her post sometime on July 28-31, 2008, during office hours to take PRC forms (renewal, application for examination

forms, oath forms, window envelopes with mailing stamps and documentary stamps) from PRC office, sent these forms to PREMP, and sold to PREMP customers.

The practice of selling PRC forms and leaving office posts during office hours was also done by Sonia Mahinay who sent PRC forms to PREMP to be sold on Jan. 28-30, 2009.<sup>[9]</sup>

CSCRO VIII, likewise, issued a formal charge against Maria Evelyn D. Larraga (Larraga) for the same offense while absolving the other five PRC employees. The charge against Larraga reads:

Sometime in 2008, Ms. Ma. Evelyn Larraga, PRA, took the collected window envelopes of PRC clients twice, first is 50 pcs., second is 25 pcs., sold them to PREMP customers but never did she return any of the mailing envelopes. This is the reason why some of the PRC 8 clients were not notified of the availability of their licenses and ratings obtained during examination because the number of envelopes does not tally with the number of clients to be notified.

The practice of selling PRC forms and leaving office posts during office hours was also done by Ma. Evelyn Larraga who sent PRC forms to PREMP to be sold on Jan. 28-30, 2009.<sup>[10]</sup>

### **Ruling of the Civil Service Commission**

In a Decision<sup>[11]</sup> dated February 6, 2012, CSCRO VIII found petitioner guilty of the administrative offense of Conduct Prejudicial to the Best Interest of the Service and meted the penalty of six months and one day suspension.<sup>[12]</sup>

The CSCRO VIII gave more credence to the positive and categorical declarations of private respondent over the denials made by petitioner. Her proximity to the operation of PREMP supports the contention of private respondent that they took PRC supplies and gave it to PREMP to be sold to its clients. However, the allegation of leaving their posts during office hours was unsubstantiated. Thus, CSCRO VIII concluded that their acts of taking office supplies taint the integrity, trust and discipline imbibed in their public office, thereby committing conduct prejudicial to the best interest of the service.<sup>[13]</sup>

The CSCRO VIII issued a separate Decision dated February 6, 2012 docketed as Decision No. 12-0022 similarly finding Larraga guilty of the administrative offense of Conduct Prejudicial to the Best Interest of the Service, the ruling thereof reads:

**WHEREFORE,** Maria Evelyn D. Larraga is hereby found guilty of the administrative offense of Conduct Prejudicial to the Best Interest of the Service, and is meted the penalty of six (6) months and one (1) day suspension.<sup>[14]</sup> (Emphasis in the original)

Petitioner and Larraga jointly filed a Motion for Reconsideration. In a Resolution<sup>[15]</sup> dated April 20, 2012, the CSRO VIII downgraded the offense to Simple Misconduct and decreased the penalty to three months and one day suspension.<sup>[16]</sup>

Aggrieved, petitioner and Larraga jointly filed an appeal<sup>[17]</sup> before the CSC.

In a Decision<sup>[18]</sup> dated January 28, 2013, the CSC found petitioner liable for the offense of Grave Misconduct and Conduct Prejudicial to the Best Interest of Service and imposed the penalty of dismissal from service.<sup>[19]</sup> It ruled that the elements of clear intent to violate the law and flagrant disregard of established rules are present in the case. The act of taking the PRC forms and supplies without authority shows her clear intent to violate the law. The element of flagrant disregard of established rules is present when her taking was with intent to gain which was clearly manifested in her act of sending the supplies to PREMPC for the purpose of selling the same to its customers.<sup>[20]</sup>

Citing the case of *Geronca v. Magalona*,<sup>[21]</sup> CSC ruled that the grave misconduct need not be related in the performance of her duty, it being sufficient that there was unlawful use of one's station or character. CSC found that petitioner unlawfully used her position as Professional Regulation Officer II when she took the PRC forms. Were it not for her position, she will not have access to these PRC supplies.<sup>[22]</sup>

In a separate Decision dated January 28, 2013, CSC likewise found Larraga guilty of Grave Misconduct and imposed upon her the penalty of dismissal from service.

Undeterred, petitioner and Larraga filed a Joint Motion for Reconsideration.<sup>[23]</sup> In a Resolution<sup>[24]</sup> dated June 25, 2013, CSC denied petitioners Motion. Similarly, in separate Resolution dated June 25, 2013, CSC likewise denied Larraga's Motion for Reconsideration.<sup>[25]</sup>

On July 18, 2013, petitioner filed a petition for review<sup>[26]</sup> before the CA.

The CA issued a Resolution dated March 25, 2014 requiring petitioner to submit a copy of her petition for review to the Office of the Solicitor General (OSG). On May 8, 2014, petitioner manifested her compliance to the said Resolution. On July 21, 2014, the OSG submitted its Comment<sup>[27]</sup> to the petition for review of petitioner. The CA required the parties to submit their respective memoranda.<sup>[28]</sup>

In a Resolution<sup>[29]</sup> dated November 14, 2014, the CA noted petitioner's Memorandum with Manifestation and the OSG's Manifestation (In Lieu of Memorandum) and deemed the case submitted for decision.<sup>[30]</sup>

In a Resolution dated November 25, 2014 the CA directed petitioner to submit documents/pleadings that were not included in her petition for review. Thus, on February 20, 2015, petitioner filed a Partial Compliance and Motion for Extension of Time submitting the documents/pleadings required and asking for an extension of time to submit Exhibit "6" and "9."<sup>[31]</sup>

### **Ruling of the Court of Appeals**

In a Resolution<sup>[32]</sup> dated April 13, 2016, the CA dismissed the petition for review without ruling on its merits. CA ruled that petitioner failed to comply with its Resolution dated November 21, 2014 which required petitioner to submit the lacking Exhibits "6"<sup>[33]</sup> and "9"<sup>[34]</sup> in her petition, within the period required by law. Thus, pursuant to Section 7, Rule 43 of the Revised Rules of Court, the failure to comply with the requirements provided under Section 6 is a ground for dismissal of the petition for review.<sup>[35]</sup>

Petitioner filed a Motion for Reconsideration and Extension of Time<sup>[36]</sup> but the CA denied the same in a Resolution<sup>[37]</sup> dated November 25, 2016.

Hence, this petition for *certiorari*.<sup>[38]</sup>

On November 8, 2017, petitioner filed a Manifestation<sup>[39]</sup> before this Court declaring that there is an accompanying case involving the same complainant, evidence and issues which arose out of the same formal charge but involves a different respondent Larraga, who was the other respondent in the formal charge issued by the CSCRO VIII, filed a petition for review before the CA docketed as CA-G.R. SP No. 130856 and raffled to the Special Second Division of the CA Manila.<sup>[40]</sup> In a Decision<sup>[41]</sup> dated September 6, 2017, the CA set aside the Resolution of the CSC and dismissed the formal charge against Larraga finding that the CSC erred in holding Larraga administratively liable for Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service.<sup>[42]</sup>

In a Resolution dated December 14, 2017, this Court noted petitioner's Manifestation and required the respondents to comment on the petition.<sup>[43]</sup> In another Resolution dated March 27, 2019, this Court resolved to await respondents' comment on the petition.<sup>[44]</sup> In a Resolution dated January 27, 2020, private respondent was required to show cause why she should not be held in contempt for her failure to file a comment within the period fixed which had long expired and to comply with the Resolution dated December 14, 2017.<sup>[45]</sup> In a Letter<sup>[46]</sup> dated July 8, 2020, private respondent apologized for her failure to file a comment and recommended that the petition for *certiorari* be dismissed. Due to the failure of respondent to file the required pleading, this Court has decided to dispense with the respondent's comment.<sup>[47]</sup>

### **Issues**

Petitioner raises the following issues:

- (1) whether the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the petition for review on procedural grounds; and
- (2) whether petitioner is liable of committing Grave Misconduct

### **Petitioner's Arguments**

The CA committed grave abuse of discretion amounting to lack or excess of jurisdiction when it dismissed the petition for review merely on procedural grounds.<sup>[48]</sup> By requesting the OSG to comment and submitting the petition for decision; CA should have decided the case on the merits and not dismiss it because of a procedural lapse. The absence of Exhibit "6" and "9" was not even raised by the OSG in its comment and it is not vital to the proper disposition of the case.<sup>[49]</sup> Further, petitioner had prudently requested from CSC the said documents however, the same can no longer be located by the latter. Petitioner pleads for the liberal application of procedural rules and asks that her petition for review be decided on the merits.<sup>[50]</sup>

### **Ruling of the Court**

The petition is meritorious.

Prefatorily, it must be pointed out that petitioner availed of the wrong remedy when she filed this petition for *certiorari* under Rule 65 to challenge the resolutions of the CA. The Resolutions dated April 13, 2016 and November 25, 2016 are final orders or judgments that is well within the ambit of a petition for review on *certiorari* under Rule 45. It is a settled rule that an independent action for *certiorari* may be availed of only when there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law. In this case, the petitioner had the remedy of appeal by *certiorari* under Rule 45 of the Revised Rules of Court.

Nevertheless, there are a few significant exceptions when the extraordinary remedy of *certiorari* may be resorted to despite the availability of an appeal, namely: (a) when public welfare and the advancement of public policy dictates; (b) when the broader interests of justice so require; (c) when the writs issued are null; and (d) when the questioned order amounts to an oppressive exercise of judicial authority. [51] We find attendant in the case at bar the second exception which outweigh rules of procedure thereby providing a justification for the suspension of their application.

Petitioner assails the resolutions of the CA which dismissed her petition for review on the ground that she failed to attach Exhibits "6" and "9" in her petition. [52] Exhibit "6" is the Duties and Responsibilities of petitioner as a Professional Regulation Officer II while exhibit "9" is the affidavit of PRC Regional 8 Director German Palabyab. [53] Petitioner avers that the CA should have decided her case on the merits instead of dismissing it merely because of a procedural lapse. She argues that she has been found guilty by the CSC of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service and has been imposed the penalty of dismissal from service, despite the fact that there was no substantial evidence to support the charges against her. [54]

We rule that the CA erred in dismissing the petition for review merely on procedural grounds. Time and again, this Court has held that cases shall be determined on the merits, after full opportunity to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections. The dismissal of cases purely on technical grounds is frowned upon and the rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice, and thereby defeat their very ends. [55]

Petitioner's evidence and arguments in support of her claim of innocence have cast doubt on the veracity of the CSC's factual conclusions in the case at hand. Petitioner raised substantive issues that should have been threshed out by the CA. While we recognize the effort of the CA to strictly uphold the procedural rules, it must be remembered that a rigid application of the rules must not frustrate and defeat substantial justice. We cannot simply brush aside her protestations of lack of administrative culpability for the sake of sticking to technicalities when the merits of her case cry out for proper judicial determination.

The CSC's decisions were anchored principally on the sole testimony of private respondent that petitioner took PRC forms (renewal, application and oath forms) from her and sent them to PREMPD to be sold. There was no evidence presented to show that petitioner actually delivered the forms to PREMPD. Likewise, there was no