

EN BANC

[G.R. No. 226622, March 14, 2017]

COMMISSION ON ELECTIONS, PETITIONER, VS. BAI HAIDY D. MAMALINTA, RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated March 11, 2016 and the Resolution^[3] dated August 26, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 134368, which reversed and set aside the Decision No. 13-0969^[4] dated September 24, 2013 and the Resolution No. 14-00135^[5] dated January 28, 2014 of the Civil Service Commission (CSC), and accordingly, reinstated respondent Bai Haidy D. Mamalinta (Mamalinta) to her former position prior to her dismissal, without loss of seniority rights, and with payment of the corresponding back salaries and all benefits which she would have been entitled to if not for her illegal dismissal.

The Facts

During the May 10, 2004 Synchronized National and Local Elections, petitioner Commission on Elections (COMELEC) appointed Mamalinta as Chairman of the Municipal Board of Canvassers (MBOC) for South Upi, Maguindanao, together with Abdullah K. Mato (Mato) and Pablito C. Peñafiel (Peñafiel), Sr. as Vice-Chairman and Member, respectively. While performing their functions as such, the MBOC allegedly committed the following acts: (a) on May 16, 2004, the MBOC proclaimed Datu Israel Sinsuat (Sinsuat) as Mayor, Datu Jabarael Sinsuat^[6] as Vice-Mayor, and eight (8) members of the *Sangguniang Bayan* as winning candidates, on the basis of nineteen (19) out of the thirty-five (35) total election returns; (b) on even date, the MBOC caused the transfer of the place for canvassing of votes from Tinaman Elementary School, South Upi, Maguindanao to Cotabato City without prior authority from the COMELEC; and (c) two days later or on May 18, 2004, they proclaimed a new set of winning candidates, headlined by Antonio Gunsí, Jr. (Gunsí) as Mayor and four (4) new members of the *Sangguniang Bayan* on the basis of thirty (30) out of thirty five (35) election returns. Thus, on May 20, 2004, Atty. Clarita Callar, Regional Election Director of the COMELEC Regional Office No. XII, reported the incidents to the COMELEC *En Banc*, which in turn, directed the COMELEC Law Department to conduct a fact-finding investigation on the matter. Thereafter, the COMELEC Law Department recommended the filing of administrative and criminal cases against the members of the MBOC, and subsequently, Mamalinta was formally charged with Grave Misconduct, Gross Neglect of Duty, Gross Inefficiency and Incompetence, and Conduct Prejudicial to the Best Interest of the Service.^[7]

In her defense,^[8] Mamalinta denied the charges against her, essentially claiming

that the MBOC's acts of double proclamation and transferring the place for canvassing were attended by duress in view of the imminent danger to their lives due to the violence and intimidation initiated by Gunsi's supporters.^[9]

The COMELEC *En Banc* Ruling

In a Resolution^[10] dated May 24, 2012, the COMELEC *En Banc* found Mamalinta guilty of Grave Misconduct, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service, and accordingly, dismissed her from public service, with imposition of all accessory penalties relative thereto.^[11]

Adopting the findings of its Law Department, the COMELEC *En Banc* ruled that the MBOC's acts of proclaiming two (2) sets of winning candidates; issuing such proclamations based on an incomplete canvass of votes; and transferring the place for the canvassing of votes are blatant violations of various laws and COMELEC resolutions on the conduct of elections, and thus, sufficient to hold Mamalinta liable for the aforesaid administrative offenses, thereby justifying her dismissal from service. In this relation, the COMELEC *En Banc* did not lend credence to Mamalinta's claim of duress and/or threats, opining her failure to substantiate the same.^[12]

Mamalinta moved for reconsideration,^[13] which was denied in a Resolution^[14] dated November 27, 2012. Aggrieved, she appealed to the CSC.^[15]

The CSC Ruling

In Decision No. 13-0969^[16] dated September 24, 2013, the CSC affirmed the COMELEC *En Banc* ruling. It held that as MBOC Chairman, Mamalinta clearly committed the acts complained of which violated various election laws and rules and tarnished the image and integrity of her public office, as well as the elections in South Upi, Maguindanao, in general. The CSC likewise did not lend credence to Mamalinta's claims of violence, opining that they were self-serving, absent any evidence supporting the same.^[17]

Dissatisfied, Mamalinta filed a motion for reconsideration,^[18] attaching thereto the Minutes^[19] of the MBOC dated May 14 and 15, 2004 and the Report^[20] dated May 16, 2004, both prepared by Peñafiel narrating the incidents that transpired during the canvassing in South Upi, Maguindanao.^[21] Such motion was, however, denied by the CSC through Resolution No. 14-00135^[22] dated January 28, 2014. Undaunted, she elevated the matter to the CA *via* a petition^[23] for review under Rule 43 of the Rules of Court.

The CA Ruling

In a Decision^[24] dated March 11, 2016, the CA reversed and set aside the CSC ruling, and accordingly, reinstated Mamalinta to her former position prior to her dismissal, without loss of seniority rights, and with payment of the corresponding back salaries and all benefits which she would have been entitled to if not for her illegal dismissal.

Contrary to the findings of the COMELEC *En Banc* and the CSC, the CA found that Mamalinta sufficiently substantiated her claims of duress by presenting various documentary evidence, namely, the Joint-Affidavit^[25] dated May 18, 2004 she executed with her Vice-Chairman, Mato, and the Minutes^[26] of the MBOC dated May 14 and 15, 2004 and the Report^[27] dated May 16, 2004 both prepared by Peñafiel, all of which recounted the acts of duress and intimidation pressed on them. Further noting that Mamalinta immediately flew to Manila after escaping the hostile incidents they experienced in order to report the same to then-COMELEC Chairman Benjamin Abalos, the CA concluded that Mamalinta and the rest of the MBOC were indeed forced, intimidated, and coerced into performing the acts constituting the charges against them, and thus, they could not be held administratively liable therefor.^[28]

The COMELEC moved for reconsideration,^[29] which was, however, denied in a Resolution^[30] dated August 26, 2016; hence, this petition.

The Issue Before the Court

The sole issue for the Court's resolution is whether or not the CA correctly reversed and set aside the CSC ruling, and consequently, absolved Mamalinta from the administrative charges of Grave Misconduct, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service.

The Court's Ruling

The petition is meritorious.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.^[31]

On the other hand, and as compared to Simple Neglect of Duty which is defined as the failure of an employee to give proper attention to a required task or to discharge a duty due to carelessness or indifference, Gross Neglect of Duty is characterized by want of even the slightest care, or by conscious indifference to the consequences, or by flagrant and palpable breach of duty.^[32]

Meanwhile, certain acts may be considered as Conduct Prejudicial to the Best Interest of Service as long as they tarnish the image and integrity of the public office and may or may not be characterized by corruption or a willful intent to violate the law or to disregard established rules.^[33] In *Encinas v. Agustin, Jr.*,^[34] the Court outlined the following acts that constitute this offense, such as: misappropriation of public funds, abandonment of office, failure to report back to work without prior notice, failure to keep in safety public records and property,

making false entries in public documents, and falsification of court orders.^[35]

In order to sustain a finding of administrative culpability under the foregoing offenses, only the quantum of proof of substantial evidence is required, or that amount or relevant evidence which a reasonable mind might accept as adequate to support a conclusion.^[36]

In the case at bar, a judicious review of the records reveals that Mamalinta is being charged of committing the following acts, namely: (a) the double proclamation of Sinsuat and Gunsí as mayor of South Upi; (b) the transfer of the place for canvassing of votes from Tinaman Elementary School, South Upi, Maguindanao to Cotabato City without prior authority from the COMELEC; and (c) the premature proclamation of Sinsuat as the winning candidate on the basis of an incomplete canvass of election returns.

Anent the first two (2) acts complained of, *i.e.*, the double proclamation and the unauthorized transfer of the place for canvassing, the Court agrees with the CA that Mamalinta should not be held administratively liable for the same to warrant her dismissal from the service, as such acts were committed while under duress and intimidation. In *People v. Nuñez*,^[37] the Court defined duress as follows:

Duress, force, fear or intimidation to be available as a defense, must be **present, imminent and impending, and of such a nature as to induce a well-grounded apprehension of death or serious bodily harm if the act is not done.** A threat of future injury is not enough.

To be available as a defense, **the fear must be well-founded, an immediate and actual danger of death or great bodily harm must be present and the compulsion must be of such a character as to leave no opportunity to accused for escape or self-defense in equal combat.** It would be a most dangerous rule if a defendant could shield himself from prosecution for crime by merely setting up a fear from or because of a threat of a third person.^[38] (Emphases and underscoring supplied)

Thus, "[d]uress, as a valid defense, should be based on *real, imminent* or reasonable fear for one's own life. It should not be inspired by speculative, fanciful or remote fear. A threat of future injury is not enough. It must be clearly shown that the compulsion must be of such character as to leave no opportunity for the accused to escape."^[39]

In the instant case, records reveal that Mamalinta and the rest of the MBOC of South Upi, Maguindanao, were under heavy duress from supporters of mayoralty candidate Gunsí. As stated in Mamalinta's Joint Affidavit^[40] with Mato, the Vice-Chairman of the MBOC, they were forcibly taken and held hostage by Gunsí's supporters, and while detained, were forced, intimidated, and coerced into declaring Gunsí as the winning candidate, despite their earlier proclamation that Sinsuat was the true winner of the mayoralty elections. Mamalinta and Mato's statements in their Joint Affidavit were then corroborated by the Minutes^[41] of the MBOC dated May 14 and 15, 2004 and the Report^[42] dated May 16, 2004 both prepared by Peñafiel, another member of the MBOC, stating *inter alia*, that while the MBOC was