

## FIRST DIVISION

[ G.R. No. 208261, December 08, 2014 ]

**PHILIPPINE AMUSEMENT AND GAMING CORPORATION,  
PETITIONER, VS. LORENIA P. DE GUZMAN, RESPONDENT.**

### DECISION

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> filed by petitioner Philippine Amusement and Gaming Corporation (PAGCOR) are the Decision<sup>[2]</sup> dated March 8, 2013 and the Resolution<sup>[3]</sup> dated July 9, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 123506, which affirmed the Decision<sup>[4]</sup> dated September 21, 2011 and the Resolution<sup>[5]</sup> dated February 1, 2012 of the Civil Service Commission (CSC) dismissing the administrative disciplinary case against respondent Lorenia P. De Guzman (De Guzman), without prejudice to its re-filing.

#### The Facts

On December 7, 2001, PAGCOR hired De Guzman as an Evaluation Specialist and assigned her to the Property and Procurement Department.<sup>[6]</sup> At the time of her employment, De Guzman accomplished a Personal History Statement (PHS),<sup>[7]</sup> which requires an attestation<sup>[8]</sup> from the employee that the information stated therein are true and correct to the best of her knowledge and belief, and agreed that any misdeclaration or omission would be sufficient ground for denial of her application, clearance, or cause for separation. In her PHS, De Guzman indicated that she had no relatives currently employed with PAGCOR and did not disclose that she has a sister named Adelina P. See (Adelina).<sup>[9]</sup> In 2008, De Guzman updated her PHS,<sup>[10]</sup> reiterating her statement that she had no relatives working with PAGCOR,<sup>[11]</sup> but this time, listed Adelina as one of her siblings.<sup>[12]</sup>

It was later found out, however, that De Guzman had a nephew named Gerwin P. See, her sister Adelina's son, who worked in PAGCOR from July 26, 2001 until his resignation on September 22, 2005.<sup>[13]</sup>

Upon discovery of De Guzman's alleged deceit, Atty. Albert R. Sordan (Atty. Sordan) of PAGCOR's Corporate Investigation Unit sent De Guzman a Notice of Charges<sup>[14]</sup> dated August 12, 2010 (Formal Charge) charging her of "Deception or Fraud in Securing Employee's Appointment or Promotion" and directed her to show cause why she should not be subjected to any disciplinary action. In her reply-letter<sup>[15]</sup> dated August 16, 2010, De Guzman, among other things, maintained that she updated her PHS with all honesty and to the best of her knowledge.

In a Memorandum<sup>[16]</sup> dated November 5, 2010 (Assailed Memorandum) signed by Michael J. Bailey, Officer-In-Charge of PAGCOR's Human Resource and Development Department (HRDD-OIC Bailey), De Guzman was found administratively liable for the charges filed against her and was,thus, dismissed.

De Guzman received a copy of the Assailed Memorandum on November 6, 2010 and appealed her dismissal before the CSC on December 10, 2010.<sup>[17]</sup> PAGCOR opposed the appeal for having been belatedly filed.<sup>[18]</sup>

### **The CSC Ruling**

In a Decision<sup>[19]</sup> dated September 21, 2011, the CSC ruled in favor of De Guzman and dismissed the administrative disciplinary case against her, without prejudice to its re-filing.<sup>[20]</sup> Despite its finding that De Guzman indeed filed her appeal 19 days beyond the expiration of the 15-day reglementary period, the CSC nevertheless took cognizance of the same, holding that technical rules of procedure are not strictly applied in administrative proceedings, as in this case.<sup>[21]</sup>

The CSC found that the Formal Charge and the Assailed Memorandum were not issued by the proper disciplinary authority – PAGCOR in this case – but merely by its employees, namely Atty. Sordan and HRDD-OIC Bailey, respectively. As such, no Formal Charge was validly filed against De Guzman, resulting in the violation of her right to due process.<sup>[22]</sup> Consequently, the CSC ordered PAGCOR to reinstate De Guzman to her position and to pay her back salaries from date of dismissal to actual reinstatement.<sup>[23]</sup>

PAGCOR moved for reconsideration, which was, however, denied in a Resolution<sup>[24]</sup> dated February 1, 2012. Aggrieved, it appealed<sup>[25]</sup> to the CA.

### **The CA Ruling**

In a Decision<sup>[26]</sup> dated March 8, 2013, the CA affirmed the CSC ruling.<sup>[27]</sup> It held that the CSC correctly relaxed its procedural rules in giving due course to De Guzman's appeal, opining that administrative bodies exercising quasi-judicial powers, such as the CSC, are unfettered by the rigidity of technical procedural rules.<sup>[28]</sup> On the merits, the CA agreed with the CSC's findings that De Guzman was deprived of due process as the Formal Charge and the Assailed Memorandum against her were not issued by PAGCOR, but merely by its employees without any authorization.Hence, the dismissal of the case without prejudice.<sup>[29]</sup>

Undaunted, PAGCOR moved for reconsideration, which was denied in a Resolution<sup>[30]</sup> dated July 9, 2013, hence, this petition.

### **The Issue Before the Court**

The primordial issue for the Court's resolution is whether or not the CA correctly affirmed the CSC's dismissal of the administrative disciplinary case against De Guzman on the ground that she was deprived of her right to due process.

## Ruling of the Court

The petition is bereft of merit.

As a general rule, an appeal is not a matter of right but a mere statutory privilege, and as such, may only be availed in the manner provided by the law and the rules. Thus, a party who seeks to exercise the right to appeal must comply with the requirements of the rules; otherwise, the privilege is lost.<sup>[31]</sup> Therefore, an appeal must be perfected within the reglementary period provided by law; otherwise, the decision becomes final and executory. However, as in all cases, there are exceptions to the strict application of the rules in perfecting an appeal,<sup>[32]</sup> such as when said appeal is meritorious.<sup>[33]</sup> Verily, strict implementation of the rules on appeals must give way to the factual and legal reality that is evident from the records of the case. After all, the primary objective of the laws is to dispense justice and equity, not the contrary.<sup>[34]</sup>

In light of the foregoing jurisprudence and after a judicious review of the records, the Court finds no error on the part of the CA in affirming the CSC's ruling giving due course to De Guzman's appeal despite its belated filing for being meritorious, as will be discussed hereunder.

Section 16 of the Uniform Rules on Administrative Cases in the Civil Service (URACCS) requires in administrative disciplinary proceedings that the disciplinary authority furnish the employee concerned a formal charge specifying the latter's acts and/or omissions complained of, and directing him to answer the charges stated therein, *viz.*:

Section 16. Formal Charge. – After a finding of a *prima facie* case, **the disciplining authority shall formally charge the person complained of**. The formal charge shall contain a specification of charge(s), a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge(s) in writing under oath in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his answer whether or not he elects a formal investigation of the charge(s), and a notice that he is entitled to be assisted by a counsel of his choice. (Emphasis and underscoring supplied)

x x x x

In the case at bar, it is undisputed that PAGCOR was the one that appointed De Guzman to her position. Adhering to the well-settled principle that the power to remove or to discipline is lodged in the same authority on which the power to appoint is vested,<sup>[35]</sup> only PAGCOR has the power to discipline or remove De Guzman for any transgressions she may have committed. As a corporate entity,<sup>[36]</sup> PAGCOR may only act through its Board of Directors as a collective body, which is vested with the power and responsibility to exercise all corporate powers under the law.<sup>[37]</sup> Simply put, PAGCOR is the proper disciplinary authority of PAGCOR