

SECOND DIVISION

[G.R. No. 184980, March 30, 2011]

DANILO MORO, PETITIONER, VS. GENEROSO REYES DEL CASTILLO, JR., RESPONDENT.

D E C I S I O N

ABAD, J.:

This case is about the right of the petitioner to be reinstated through an action for *quo warranto* against the present holder meantime that petitioner has appealed from the Ombudsman's decision dismissing him from the service for, among other grounds, misconduct in office.

The Facts and the Case

On December 7, 2005 the Ombudsman charged respondent Generoso Reyes Del Castillo, Jr. (Del Castillo), then Chief Accountant of the General Headquarters (GHQ) Accounting Center of the Armed Forces of the Philippines (AFP), with dishonesty, grave misconduct and conduct prejudicial to the best interest of the service in OMB-P-A-06-0031-A. The Ombudsman alleged that Del Castillo made false statements in his Statement of Assets and Liabilities from 1996 to 2004 and that he acquired properties manifestly out of proportion to his reported salary.

On April 1, 2006 the GHQ reassigned Del Castillo to the Philippine Air Force (PAF) Accounting Center by virtue of GHQ AFP Special Order 91 (SO 91).^[1] Through the same order, petitioner Danilo Moro (Moro), then Chief Accountant of the Philippine Navy, took over the position of Chief Accountant of the GHQ Accounting Center.

Meantime, on August 30, 2006 the Ombudsman placed Del Castillo under preventive suspension for six months and eventually ordered his dismissal from the service on February 5, 2007.^[2] The penalty imposed on him included cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in the government. Del Castillo filed a motion for reconsideration, which is pending to this date.

Following the lapse of his six-month suspension or on March 12, 2007 Del Castillo attempted to reassume his former post of GHQ Chief Accountant. But, he was unable to do so since Moro declined to yield the position. Consequently, on April 4, 2007 Del Castillo filed a petition for *quo warranto*^[3] against Moro with the Regional Trial Court^[4] (RTC) of Parañaque City in Civil Case 07-0111.

Del Castillo claimed that Moro was merely detailed as GHQ Chief Accountant when the Ombudsman placed Del Castillo under preventive suspension. Since the latter's period of suspension already lapsed, he was entitled to resume his former post and

Moro was but a usurper. [5]

For his part, Moro pointed out in his Answer^[6] that his appointment under SO 91 as GHQ Chief Accountant was a permanent appointment. Indeed, the GHQ had already reassigned Del Castillo to the PAF Accounting Center even before the Ombudsman placed him under preventive suspension. Del Castillo was, therefore, not automatically entitled to return to his former GHQ post despite the lapse of his suspension.

During the pendency of the *quo warranto* case before the RTC, Del Castillo refused to report at the PAF Accounting Center despite a memorandum from the AFP Acting Deputy Chief of Staff for Personnel that carried the note and approval of the AFP Chief of Staff.^[7] Del Castillo insisted that he could not be placed under the PAF since he was the GHQ Chief Accountant.^[8]

On October 10, 2007 the RTC dismissed Del Castillo's petition,^[9] holding that Moro held the position of GHQ Chief Accountant pursuant to orders of the AFP Chief of Staff. Moreover, the RTC found Del Castillo's reassignment to the PAF Accounting Center valid. Under the Civil Service Commission (CSC) Rules, a reassignment may be made for a maximum of one year. Since Del Castillo's preventive suspension kept him away for only six months, he had to return to the PAF to complete his maximum detail at that posting. Besides, said the trial court, the Ombudsman's February 5, 2007 Order, which directed Del Castillo's dismissal from the service for grave misconduct, among others, rendered the petition moot and academic. The RTC denied Del Castillo's motion for reconsideration.

Instead of appealing from the order of dismissal of his action, Del Castillo filed a petition for *certiorari* with the Court of Appeals (CA) in CA-G.R. SP 103470. On October 13, 2008 the CA reversed the RTC Decision.^[10] Notwithstanding the procedural error, the CA gave due course to the petition on grounds of substantial justice and fair play. It held that Del Castillo's reassignment exceeded the maximum of one year allowed by law and that SO 91 was void since it did not indicate a definite duration for such reassignment. Further, the CA held as non-executory the Ombudsman's dismissal of Del Castillo in view of his appeal from that dismissal. With the denial of his motion for reconsideration, Moro filed this petition *via* Rule 45 of the Rules of Court.

The Issue Presented

The key issue in this case is whether or not respondent Del Castillo is entitled to be restored to the position of Chief Accountant of the GHQ Accounting Center that he once held.

The Court's Ruling

An action for *quo warranto* under Rule 66 of the Rules of Court may be filed against one who usurps, intrudes into, or unlawfully holds or exercises a public office.^[11] It may be brought by the Republic of the Philippines or by the person claiming to be entitled to such office.^[12] In this case, it was Del Castillo who filed the action,