

THIRD DIVISION

[G.R. No. 183445, September 14, 2011]

**OFFICE OF THE PRESIDENT AND PRESIDENTIAL ANTI-GRAFT
COMMISSION, PETITIONERS, VS. CALIXTO R. CATAQUIZ,
RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the January 31, 2008 Decision^[1] and the June 23, 2008 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 88736 entitled "*Calixto R. Cataquiz v. Office of the President and Concerned Employees of the LLDA (CELLDA)*," which reversed and set aside the Amended Resolution^[3] dated February 10, 2005 of the Office of the President (OP).

The Facts

Respondent Calixto R. Cataquiz (*Cataquiz*) was appointed as General Manager of the Laguna Lake Development Authority (LLDA) on April 16, 2001.^[4]

On April 1, 2003, a majority of the members of the Management Committee and the rank-and-file employees of the LLDA submitted to then Department of Environment and Natural Resources (DENR) Secretary Elisea G. Gozun (*Secretary Gozun*) their Petition for the Ouster of Cataquiz as LLDA General Manager^[5] on the grounds of corrupt and unprofessional behavior and management incompetence.

In response, Secretary Gozun ordered the formation of an investigating team to conduct an inquiry into the allegations against Cataquiz. The results of the fact-finding activity were submitted in a Report^[6] dated May 21, 2003 in which it was determined that respondent may be found guilty for acts prejudicial to the best interest of the government and for violations of several pertinent laws and regulations. Consequently, the investigating team recommended that the case be forwarded to the Presidential Anti-Graft Commission (PAGC) for proper investigation.

In her Memorandum^[7] for the President dated May 23, 2003, Secretary Gozun reported that there is *prima facie* evidence to support some accusations against Cataquiz which may be used to pursue an administrative or criminal case against him. It was further noted that respondent lost his leadership credibility. In light of these, she recommended that Cataquiz be relieved from his position and that he be investigated by PAGC.

On June 6, 2003, in a letter^[8] to then President Gloria Macapagal-Arroyo (*President Arroyo*), the Concerned Employees of the Laguna Lake Development Authority

(CELLDA), a duly organized employees union of the LLDA, expressed their support for the petition to oust Cataquiz and likewise called for his immediate replacement.

Thereafter, CELLDa formally filed its Affidavit Complaint^[9] dated September 5, 2003 before PAGC charging Cataquiz with violations of Republic Act (R.A.) No. 3019 (The Anti-Graft and Corrupt Practices Act), Executive Order (E.O.) No. 292 (The Administrative Code) and R.A. No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees), to wit:

Violation of Section 3(e) of Republic Act 3019 in relation to Section 46 b(8) and (27), Chapter VI, Book V of EO 292.

- a. That respondent directly transacted with 35 fishpen operators and authorized [the] payment of fishpen fees based on negotiated prices in violation of LLDA Board Resolution No. 28, Series of 1996 as alleged.
- b. That respondent allegedly approved additional fishpen areas in the Lake without the approval of the Board and in violation of the existing Zoning and Management Plan (ZOMAP) of the Laguna de Bay that allows a carrying capacity of 10,000 hectares [of] fishpen structures in the lake based on scientific and technical studies.
- c. That respondent allegedly condoned or granted reductions of fines and penalties imposed by the Public Hearing Committee, the duly authorized adjudicatory body of the LLDA. The condonation was allegedly without the concurrence of LLDA Board of Directors.
- d. That respondent allegedly caused the dismissal of some cases pending with the LLDA without the concurrence of the Public Hearing Committee.
- e. That on June 4, 2002, respondent allegedly appropriated and disbursed the amount of Five Hundred Thousand Pesos (? 500,000.00) from LLDA funds and confidential funds without any authority from the Department of Budget and Management.
- f. That respondent allegedly contracted the services of several consultants without prior written concurrence from the Commission on Audit.
- g. That on December 19, 2001, respondent allegedly appropriated and disbursed LLDA funds for the grant of gifts to indigent residents of San Pedro, Laguna. Said appropriation is not within the approved budget neither was it sanctioned by the Board of Directors, as alleged.
- h. That respondent allegedly allowed a Taiwanese company identified as Phil-Tai Fishing and Trade Company to occupy and utilize certain portions of LLDA facilities located at Km. 70, Barangay Bangyas,

Calauan, Laguna without any contract nor authority from the LLDA Board.

- i. That respondent allegedly authorized the direct procurement of fish breeders from Delacon Realty and Development Corporation without the required bidding in accordance with COA rules and regulations.

Violation of Section 7(d) of Republic Act 6713:

- a. That respondent allegedly solicited patronage from regulated industries in behalf of RVQ Productions, Inc. for the promotion of its film entry to the 2002 Metro Manila Film Festival entitled "Home Alone the Riber."

Violation of Section 5(a) of Republic Act 6713:

- a. That respondent allegedly failed to act promptly and expeditiously on official documents, requests, papers or letters sent by the public or those which have been processed and completed staff work for his appropriate action.^[10]

On December 5, 2003, PAGC issued a Resolution^[11] recommending to the President that the penalty of dismissal from the service with the accessory penalties of disqualification for re-employment in the public service and forfeiture of government retirement benefits be imposed upon Cataquiz.

Thereafter, on December 8, 2003, Cataquiz was replaced by Fatima A.S. Valdez, who then assumed the position of Officer-in-Charge/General Manager and Chief Operating Officer of the LLDA by virtue of a letter of appointment dated December 3, 2003 issued by President Arroyo.^[12]

In its Decision^[13] dated June 29, 2004, the OP adopted by reference the findings and recommendations of PAGC. The dispositive portion thereof reads:

WHEREFORE, as recommended by the PAGC, respondent Calixto R. Cataquiz, is hereby **DISMISSED FROM THE SERVICE**, with the accessory penalties of disqualification from re-employment to government service and forfeiture of retirement benefits, effective immediately upon receipt of this order.

SO ORDERED.

Aggrieved, Cataquiz filed his Motion for Reconsideration and/or for New Trial^[14] dated August 4, 2004, arguing that: (1) prior to the issuance by the PAGC of its Resolution and by the OP of its Decision, he was already removed from office, thereby making the issue moot and academic; and (2) he cannot be found guilty for violating a resolution which was foreign to the charges against him or for acts which did not constitute sufficient cause for his removal in office, as shown by acts and documents which subsequently became available to him, entitling him to a new trial.

On February 10, 2005, the OP issued an Amended Resolution,^[15] imposing on Cataquiz the penalties of disqualification from re-employment in the government service and forfeiture of retirement benefits, in view of the fact that the penalty of dismissal was no longer applicable to him because of his replacement as General Manager of the LLDA.

Cataquiz elevated his case to the CA via a petition for review^[16] dated March 2, 2005, raising the same issues presented in his Motion for Reconsideration and/or New Trial before the OP.

The CA promulgated its Decision on January 31, 2008, which reversed and set aside the Amended Resolution of the OP. In so resolving, the CA reasoned that the accessory penalties of disqualification from employment in the government service and forfeiture of retirement benefits could no longer be imposed because the principal penalty of dismissal was not enforced, following the rule that the accessory penalty follows the principal penalty. The CA also agreed with Cataquiz that he could not be held liable for a violation of Board Resolution No. 68 of the LLDA, which when examined, was found not to be related to fishpen awards. If at all, the applicable rule would be Board Resolution No. 28, as suggested by Cataquiz himself. Said resolution though would be an invalid basis because it was not approved by the President pursuant to Section 4(k) of R.A. No. 4850 (An Act Creating the Laguna Lake Development Authority). Finally, the CA found that the offenses charged against Cataquiz under R.A. No. 4850 constituted acts that were within his authority as general manager of the LLDA to perform.

Not in conformity, the OP and the PAGC (*petitioners*) filed this petition for review.

After the submission of respondent's comment^[17] and the petitioners' reply,^[18] Cataquiz filed an Urgent Motion for Judicial Notice^[19] dated August 13, 2009 urging the Court to take judicial notice of the Resolution^[20] rendered by the Office of the Ombudsman (*Ombudsman*) on November 30, 2004 which recommended the dismissal of the charges against him for violation of R.A. No. 3019.

The Issues

Petitioners cite the following errors as grounds for the allowance of the petition:

I.

The Court of Appeals gravely erred when it reversed *in toto* the findings of the OP and PAGC without stating clearly and distinctly the reasons therefor, which is contrary to the Constitution and the Rules of Court; the findings of the Court of Appeals are conclusions without citation of specific evidence on which they are based.

II.

The Court of Appeals erred because its judgment is based on a

misapprehension of facts;

III.

The Court of Appeals erred when it went beyond the issues of the case;

IV.

The findings of the Court of Appeals are contrary to the findings of the OP, PAGC and DENR Fact Finding Committee, [and]

V.

The OP and PAGC correctly found respondent to be unfit in public service, thus it did not err in imposing the accessory penalties of disqualification from employment in the government service and forfeiture of retirement benefits.^[21]

Cataquiz, on the other hand, submits the following arguments in his Memorandum:
^[22]

I.

The dismissal by the Ombudsman of the cases against the respondent under the same set of facts further constitute the law of the case between the parties which necessitates the dismissal of this appeal and further supports the correctness of the decision of the Court of Appeals.

II.

The Court of Appeals did not commit any error when it reversed the amended resolution of the petitioner Office of the President.
^[23]

The issues can be condensed into four essential questions:

- (1) Whether the CA made an incorrect determination of the facts of the case warranting review of its factual findings by the Court;
- (2) Whether the dismissal by the Ombudsman of the charges against Cataquiz serves as a bar to the decision of the OP;
- (3) Whether Cataquiz can be made to suffer the accessory penalties of disqualification from re-employment in the public service and forfeiture of government retirement benefits, despite his dismissal from the LLDA prior to the issuance by the PAGC and the OP of their decision and resolution, respectively; and