

## SECOND DIVISION

[ G.R. No. 168707, September 15, 2010 ]

**MARLA MACADAEG LAUREL, PETITIONER, VS. SOCIAL SECURITY SYSTEM, A BODY CORPORATE ACTING THROUGH THE SOCIAL SECURITY COMMISSION AND THE PHILIPPINE ASSOCIATION OF RETIRED PERSONS (PARP), REPRESENTED BY HONESTO C. GENERAL, RESPONDENTS.**

### DECISION

**ABAD, J.:**

This case refers to the appropriate remedy in an administrative case where the penalty is final and inappealable.

#### The Facts of the Case

On January 30, 2002 Honesto General, a Social Security System (SSS) member and a representative of the Philippine Association of Retired Persons, charged some SSS officers and employees, including its Senior Vice-President for Administration, petitioner Marla M. Laurel, with grave misconduct, conduct gravely prejudicial to the best interest of the service, and gross neglect in the performance of duty before the Office of the Ombudsman.

General alleged that on August 1 and 2, 2001 Laurel and the others with her held concerted strikes within the premises of the SSS Main Office, demanding the resignation of then SSS President and Chief Executive Officer (CEO) Vitaliano Nañagas II. The mass actions, General said, paralyzed vital SSS services nationwide, causing serious prejudice to thousands of its members. The strikes, he claimed, were preceded by several demonstrations during noontime breaks and distribution of propaganda materials, including a group *Manifesto* which Laurel signed. After evaluating the charges, the Overall Deputy Ombudsman referred the matter to the Social Security Commission (SSC) for disposition.

Laurel countered that she had no part in the strike and that General charged her based on the *guilty by association theory*. Indeed, on June 14, 2001 she issued a *Memorandum*, advising all SSS officers and employees to avoid any action that could adversely affect their status and the SSS operations and to stay within the bounds of the law.

On June 14, 2002 General amended the complaint, alleging conspiracy among the defendants and attaching supplemental affidavits of witnesses, to which amendment Laurel objected. On July 26, 2001 Laurel issued another *Memorandum*, reminding SSS employees that they were prohibited from staging a strike and appealing to all officials and employees to peacefully settle the controversy.

On October 8, 2002 the SSC denied admission of General's amended complaint on the ground that the pieces of evidence he submitted did not sufficiently substantiate his allegation of conspiracy. Still, the SSC kept the supplemental and additional affidavits as part of the record for whatever they were worth.

Subsequently, on March 26, 2003 the SSC rendered a Decision in the case, finding Laurel guilty of simple neglect of duty and imposing on her a fine equivalent to one months salary. Feeling aggrieved, Laurel filed a petition for *certiorari* with the Court of Appeals (CA) under Rule 65 in CA-G.R. SP 77267.

On March 11, 2005 the CA rendered a decision, denying Laurel's petition. The CA ruled that the proper mode of appeal for her is a petition under Rule 43, not a special civil action of *certiorari*. She, thus, filed the present petition.

### **The Issues Presented**

The issues presented in this case are:

1. Whether or not the CA erred in denying the petition on the technical ground it invoked; and
2. Whether or not the SSC gravely abused its discretion in finding Laurel guilty of simple neglect of duty.

### **The Rulings of the Court**

**One.** The CA found that, although Laurel's petition may have been meritorious, she pursued the wrong mode of appeal--a special civil action for *certiorari* under Rule 65. The SSC is a quasi-judicial agency and, therefore, its decisions are reviewable by petition for review under Rule 43. The CA committed a serious error.

Under the law, the decisions of heads of departments, agencies, and instrumentalities involving disciplinary actions against its officers and employees are final and inappealable when the penalty they impose is suspension for not more than 30 days or, as the SSC meted out to Laurel, a fine not exceeding 30 days salary.<sup>[1]</sup>

True, petitions for review under Rule 43 specifically cover decisions rendered by the SSC. But this applies only to SSC decisions where the remedy of appeal is available. Here, considering that the law regards the kind of penalty the SSC imposed on Laurel already final, she had no appeal or other plain, speedy and adequate remedy in the ordinary course of law against the decision of that body. Provided the SSC committed grave abuse of discretion in rendering the decision against her, Laurel can avail herself of the remedy of special civil action of *certiorari* under Rule 65.<sup>[2]</sup>

**Two.** To avoid multiplicity of actions, it would not do to remand the case to the CA for adjudication on its merits considering how the parties have raised the main issue before this Court and amply argued the same.

The SSC held that Laurel's actions proved that she was more than a mere bystander in the employees' restive actions at the SSS Main Office. The SSC relied on the