

EN BANC

[G.R. No. 174929, June 27, 2008]

ENGR. RANULFO C. FELICIANO, PETITIONER, VS. NESTOR P. VILLASIN, RESPONDENT.

DECISION

CHICO-NAZARIO, J.:

This is a Petition for *Certiorari* under Rule 65 of the Revised Rules of Court assailing the following: (1) the Order^[1] dated 28 July 2006 of Branch 6 of the Regional Trial Court (RTC) of Tacloban City, Leyte, dismissing petitioner Ranulfo C. Feliciano's Petition for *Quo Warranto* against respondent Nestor P. Villasin in Civil Case No. 2006-03-29; and (2) the Order^[2] dated 8 September 2006 of the same court denying petitioner's Motion for Reconsideration.

The following are the antecedent facts of this case:

Petitioner Feliciano was appointed General Manager (GM) of Leyte Metropolitan Water District (LMWD) on 11 June 1975 by the LMWD Board of Directors through Resolution No. 14, Series of 1975.^[3]

On 6 March 1990, the Local Water Utilities Administration (LWUA) took over the management and policy-making functions of LMWD owing to LMWD's default on the payment of its obligations to LWUA. Said move was made pursuant to Presidential Decree No. 198, otherwise known as THE PROVINCIAL WATER UTILITIES ACT OF 1973,^[4] issued on 25 May 1973. The LWUA appointed an Interim General Manager and Chairman of the Board of Directors, as well as its members.

After the LWUA took over the management and policy-making functions of the LMWD in March 1990, Engineer (Engr.) Cayo U. Emnas was appointed as take-over General Manager. Emnas thereafter filed administrative charges against Feliciano for Grave Misconduct, Dishonesty and Conduct Unbecoming an LMWD Official, docketed as Administrative Case No. LMWD-OGCC-01-01.^[5] Feliciano was accused of authorizing payment of his backwages amounting to P134,721.64, for the period 6 March 1990 up to 23 October 1990, although he did not report for work during said period.

The Office of the Government Corporate Counsel (OGCC) handled the investigation of the charges against Feliciano. In a Resolution dated 16 September 1991, the OGCC found Feliciano guilty as charged and recommended the penalty of dismissal. Pertinent portions of the OGCC Resolution reads:

The action of respondent in authorizing, causing and receiving the aforesaid disbursement of P134,721.64 in payment ostensibly of his backwages for the period starting 6 March 1990 up to and until 23

October 1990, knowing that during the said period he did not report for work nor rendered service to LMWD as testified to by complainants witnesses, is not only irregular but unlawful. Worse, respondent being the General Manager, necessarily had taken advantage of his position and abused the confidence reposed in his office in the perpetration of the said rank dishonesty. As a consequence thereof, LMWD was defrauded and suffered damage in the sum of P134,721.64.

Accordingly, undersigned finds respondent Ranulfo C. Feliciano guilty, as charged, of GRAVE MISCONDUCT, DISHONESTY, AND CONDUCT UNBECOMING OF AN LMWD OFFICIAL.

In view of the grave nature of the offense committed by respondent, the large sum which LMWD has been defrauded of, and the existence of aggravating circumstances occasioned by respondent's taking undue advantage of his position and abusing the confidence of his office, undersigned recommends the imposition of the penalty of DISMISSAL on respondent.^[6]

On 11 November 1991, the Interim LMWD Board of Directors approved *in toto* the findings of the OGCC including its recommendation to dismiss Feliciano.^[7]

On 1 October 1993, the Civil Service Commission (CSC) issued Memorandum Circular No. 41, Series of 1993, directing Board Chairpersons and GMs of water districts to submit personnel appointments for approval by the CSC.

On 20 July 1998, the take-over of the management and operations of the LMWD by the LWUA was lifted by the LWUA Board of Trustees in its Resolution No. 138, Series of 1998.^[8]

On 25 September 1998, the new regular LMWD Board of Directors unanimously approved Resolution No. 98-002 ordering Feliciano to re-assume ^[9] the post he had vacated as GM of LMWD. The position was accepted by Feliciano on 27 September 1998.^[10]

As GM, Feliciano appointed Edgar R. Nedruda, Milagros A. Majadillas and Edgar B. Ortega as Division Manager, Quality Control Assurance Officer and Plant Equipment Operator E, respectively, at the LMWD.^[11] In compliance with CSC Memorandum Circular No. 41, Series of 1993, Feliciano submitted the same to the CSC Regional Office (CSCRO) for approval. The CSCRO, however, disapproved Feliciano's LMWD personnel appointments in its Order issued on 8 June 1999 since GM Feliciano did not possess the required CSC-approved appointment pursuant to CSC Memorandum Circular No. 41, S. 1993.^[12] Feliciano appealed the Order to the CSC.

On 8 September 2000, the CSC through its Chairperson Corazon Alma G. de Leon, issued **CSC Resolution No. 002107** denying Feliciano's appeal of his disapproved LMWD personnel appointments on the ground that he was only a *de facto* officer.^[13] It found that Feliciano had no authority to make appointments since he himself lacked the required CSC-approved appointment pursuant to CSC Memorandum

Circular No. 40, Series of 1998, and Memorandum Circular No. 41, Series of 1993.

[14] The CSC thus resolved:

WHEREFORE, the Order issued by the Civil Service Commission (CSCRO) Regional Office No. VIII, Palo, Leyte, disapproving the appointments of Nedruda, Majadillas and Ortega on the ground that Ranulfo Feliciano lacks the authority to appoint, is hereby affirmed.

Accordingly, the Human Resource Management Officer/Personnel Officer of the Leyte Metro Water District (LMWD) may **re-submit the appointment of Ranulfo Feliciano** to the position of General Manager of the LMWD, to the CSC Leyte Field Office for attestation.

Feliciano may likewise **re-appoint Nedruda, Majadillas and Ortega** to the same positions. (Emphases ours.)

Feliciano filed a Motion for Reconsideration citing as main argument the fact that the LMWD was not a government-owned and controlled corporation, but a special type of non-stock, non-profit private corporation imbued with public interest, and therefore, not covered by the civil service rules.

The CSC denied Feliciano's Motion for Reconsideration in its **Resolution No. 010218**, issued on 22 January 2001, which reiterated that Feliciano's argument on the private character of water districts had long been put to rest in *Davao City Water District v. Civil Service Commission*, which declared water districts to be government-owned or controlled corporations with original charter, falling under the jurisdiction of the CSC and Commission on Audit (COA).

Not satisfied, Feliciano appealed CSC Resolutions No. 002107 and 010218 to the Court of Appeals via Petition for *Certiorari*. The case was docketed as CA-G.R. No. 63325. On 1 September 2005, the Court of Appeals in Cebu City, through Associate Justice Ramon M. Bato, Jr., denied the petition.^[15] Feliciano filed a Motion for Reconsideration but the same was denied per Resolution dated 15 August 2006.^[16] Feliciano thereafter appealed to this Court on 15 August 2006 *via* petition for review on *certiorari* in G.R. No. 174178. In an *en banc* Decision issued on 17 October 2006, this Court denied the petition for its failure to sufficiently show that the CSC committed any reversible error in issuing the challenged decision and resolution. Feliciano's Motion for Reconsideration thereof was denied on 23 January 2007.

On 12 January 2005, the CSC issued a Memorandum directing its Regional Director (for Region 8) Rodolfo Encajonado (RD Encajonado) to submit an update on the status of Feliciano's appointment as GM of LMWD.

In his Memorandum submitted to the CSC on 14 January 2005, RD Encajonado reported that the LMWD Board of Directors had not yet submitted the required appointment of Feliciano as GM of LMWD for attestation, as required by CSC Resolutions No. 002107 and No. 010218. On account thereof, the CSC, through its Chairperson Karina Constantino-David, issued on 28 February 2005 **CSC Resolution No. 050307**, declaring Feliciano to be a mere *de facto* officer of LMWD and ordering him to vacate the position of GM, to wit:

With the promulgation on September 13, 1991 of the above-mentioned Supreme Court decision,^[17] the issuance on October 1, 1993 of the aforesaid CSC Memorandum Circular, and the adoption on January 22, 2001 of CSC Resolution No. 01-2018 denying Feliciano's motion for reconsideration, Feliciano is under legal obligation to comply by submitting his appointment to the Commission for attestation/approval. This, he did not do. He instead stubbornly maintained his personal stand that water districts are private corporations, not government-owned or controlled corporations with original charter. For all legal intents and purposes, effective upon his receipt on February 6, 2001 of CSC Resolution No. 01-0218 denying his motion for reconsideration, Feliciano is a mere usurper or intruder who has no right or title whatsoever to the position/office of General Manager. His further occupancy of the position after said date holds him criminally liable for usurpation of authority.

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WHEREFORE, the Commission resolves as follows:

1. Between June 8, 1999 (the date when the Civil Service Commission Regional Office No. VIII issued an Order disapproving the appointments of Edgar R. Nedruda, Milagros A. Majadillas and Edgar B. Ortega on the ground that Ranulfo C. Feliciano does not possess a CSC-approved appointment) and February 6, 2001 (the date when Feliciano received a copy of CSC Resolution No. 01-0218 denying his motion for reconsideration and affirming CSC Resolution No. 00-2107), Feliciano shall be treated as a de facto officer whose acts are valid and binding only as regards innocent third persons. Insofar as Feliciano himself is concerned, his acts are void, hence, he is not entitled to the emoluments of the office. Regarding the three (3) issued appointments, the same are all void, since Feliciano has no authority to issue the same.
2. Starting February 6, 2001, Feliciano is a mere usurper or intruder without any right or title to the office/position of General Manager of the Leyte Metropolitan Water District (LMWD). His further occupancy of the position of General Manager after February 6, 2001 holds him criminally liable for usurpation of authority. Effective upon receipt of this Resolution, he is ordered to vacate the position of LMWD General Manager.^[18]

On 22 March 2005, Feliciano again sought recourse at the Court of Appeals where he filed a Petition for *Certiorari* and Prohibition with application for Temporary Restraining Order (TRO) and Writ of Injunction, seeking to enjoin the implementation of CSC Resolution No. 050307, Series of 2005. The case was docketed as **CA-G.R. SP No. 00489**.^[19]

On 30 March 2005, while CA-G.R. SP No. 00489 was still pending with the Court of Appeals, with no injunction having been issued by the appellate court, the LMWD Board of Directors declared the GM position occupied by Feliciano vacant by virtue of LMWD Resolution No. 050307.^[20]

The Court of Appeals subsequently issued on 12 April 2005 a Resolution in CA-G.R. SP No. 00489 granting a TRO effective for sixty days. After the lapse of the TRO, the LMWD Board of Directors appointed Villasin as the new GM of LMWD on 14 June 2005. On 16 September 2005, the Court of Appeals dismissed CA-G.R. SP No. 00489 which reached this Court *via* petition for review in G.R. No. 172141. This was eventually denied by this Court and entry of judgment was made on 14 November 2006. On 28 December 2005, the LMWD Board of Directors unanimously approved LMWD Resolution No. 05-145 certifying that Villasin was the GM of LMWD pursuant to the provisions of Presidential Decree No. 198 and the CSC Rules and Regulations.

On 28 March 2006, Feliciano thus filed with the RTC a Petition for *Quo Warranto* against Villasin under Rule 66 of the 1997 Rules of Civil Procedure, docketed as **Civil Case No. 2006-03-29**.

Feliciano asked the RTC to restore him to his position as GM of LMWD, and to remove Villasin therefrom. In particular, he prayed for the following in his Petition for *Quo Warranto*:

1. To order [Villasin] to vacate the Office of General Manager of LMWD and for [Feliciano] to be seated to such office;
2. To mandate [Villasin] to pay the salaries and other emoluments of [Feliciano] which as of this date amounts to more than One Million Two Hundred Thousand Pesos (P1,200,000.00);
3. To direct [Villasin] to pay [Feliciano] attorney's fees comprised of Two Hundred Thousand Pesos (P200,000.00) as acceptance fees and Five Thousand Pesos (P5,000.00) appearance per hearing;
4. To command [Villasin] to pay the cost of herein Petition for *Quo Warranto*.

[Feliciano] also prays for such other reliefs as may be necessary under the circumstances.^[21]

Citing the Court's ruling in *Villaluz v. Zaldivar*,^[22] Feliciano argued that since the LWUA had no power to remove a GM appointed by a regular Board of Directors, it should follow then that an interim Board of Directors neither had the power to discipline or remove a regular GM of LMWD.

Villasin countered by filing a Comment/Answer with Motion to Dismiss the Petition for *Quo Warranto*, on the following grounds:

- (a) Forum shopping;
- (b) Feliciano is disqualified from government service due to his dismissal from office on 11 November 1991;
- (c) Petitioner's claim that LMWD is a private entity defeats his petition since *quo warranto* is a remedy of a person claiming a public office;
- (d) Quo warranto case was filed more than a year from the time