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FIRST DIVISION

[G.R. NO. 153624, October 24, 2008]

JUDGE ADORACION G. ANGELES, PETITIONER, VS. P/INSP. JOHN A. MAMAUAG, SPO2 EUGENE ALMARIO, SPO4 ERLINDA GARCIA AND SPO1 VIVIAN FELIPE, RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Assailed and sought to be set aside in this petition for review on certiorari is the Decision[1] dated September 6, 2001 of the Court of Appeals (CA) in *CA-G.R. SP No. 61711,* as reiterated in its Resolution[2] of May 13, 2002, setting aside the July 3, 1997 resolution of Philippine National Police (PNP) Chief Recaredo Sarmiento II (PNP Chief), the March 3, 2000 decision and the June 30, 2000 resolution, both of the National Appellate Board (NAB) of the National Police Commission.

Briefly, the facts are as follows,

On March 2, 1995, petitioner's housemaids, Nancy Gaspar and Proclyn Pacay, were brought by a certain Agnes Lucero to the Baler Police Station 2, Central Police District Command (CPDC), Quezon City after they were found wandering aimlessly in a bus terminal. The incident drew the attention of the media and spawned several cases, among them is a complaint for grave misconduct filed by petitioner against P/Insp. Roberto V. Ganias, SPO1 Jaime Billedo, herein respondents SPO2 Eugene V. Almario (Almario), P/Insp. John A. Mamauag (Mamauag), SPO1 Vivian M. Felipe (Felipe) and SPO4 Erlinda L. Garcia (Garcia) from which the present controversy takes root.

The administrative complaint sought therein respondent police officers' summary dismissal from service on ground of alleged serious irregularities committed by them in the handling of petitioner's criminal complaint for qualified theft against the two housemaids. Allegedly, while the housemaids were under police custody, several items of jewelry and clothing materials belonging to and stolen from her were found in the possession of housemaid Proclyn Pacay. Hence, petitioner's witnesses requested that the respondent police officers register the discovery of the stolen articles in the police logbook but the latter did not heed to the request. Moreover, the police officers allegedly refused to act upon the incident and to conduct further investigation.

The case was initially investigated by the Inspection and Legal Affairs Division of the CPDC which recommended the dismissal of the charges against the respondent police officers. In a resolution[3] dated April 10, 1995, the CPDC District Director approved the recommendation and dismissed the complaint.

Displeased with the outcome of her complaint, petitioner moved for a re-

investigation of the case before the PNP Chief.

On June 7, 1996, upon conduct of summary proceedings, the PNP Chief issued a decision[4]. Dispositively, the decision reads:

> WHEREFORE, this headquarters finds: Respondents P/CINSP Roberto Ganias, SPO1 Jaime Billedo, SPO1 Roberto Cariño guilty of Serious Neglect of Duty and orders their dismissal from the police service; P/INSP John Mamauag and SPO2 Eugene Almario guilty of Less Serious Neglect of Duty and orders that both of them be suspended from the police service for Ninety (90) days with forfeiture of pay; and SPO4 Erlinda Garcia and SPO1 Vivian Felipe exonerated of the charge for insufficiency of evidence.
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> SO ORDERED.

Still not satisfied, petitioner filed a Motion for Partial Reconsideration of the foregoing decision. In a Resolution[5] dated July 3, 1997, the PNP Chief modified his previous ruling and ordered the dismissal from service of respondents Mamauag, Almario, Garcia and Felipe.

Respondents filed a petition for *certiorari* and mandamus against the PNP Chief, the PNP Inspector General and petitioner before the Quezon City Regional Trial Court, Branch 101. However, in an Order dated November 25, 1997, the trial court dismissed the petition for failure to exhaust administrative remedies.

Thereafter, respondents sought appellate recourse before the National Police Commission, NAB but in the decision[6] dated March 3, 2000, the appeal was dismissed for having been filed late. Subsequent motion for reconsideration was likewise denied on June 30, 2000.

Unperturbed, respondents elevated the matter to the CA by way of petition for review under Rule 43 of the Rules of Court. On September 6, 2001, the CA rendered the herein challenged Decision. The decretal portion of which reads:

> **WHEREFORE**, in view of the foregoing, the Resolution of the PNP Chief Recaredo Sarmiento II dated 3 July 1997, having been rendered in excess of his jurisdiction is hereby **SET ASIDE** for being null and void. Accordingly, the **DECISION** and **RESOLUTION** made by the National Appellate Board dated 3 March 2000 and 30 June 2000, respectively, are also **SET ASIDE** for being null and void.
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> **SO ORDERED**.

Aggrieved, petitioner is now before the Court *via* the present recourse raising the following issues:

1. Whether Sections 43[7] and 45[8] of Republic Act No. (RA) 6975[9] allow the filing of a motion for reconsideration;

2. Whether the PNP Chief could modify his June 7, 1996 decision and issue another with a higher penalty of dismissal from service; and

3. Whether petitioner as private complainant in the administrative case has the legal personality to move for reconsideration, or appeal an adverse decision of the disciplining authority.

At the outset, the Court notes that the issues raised by petitioner had already been settled by the Court in a kindred case, *The National Appellate Board (NAB) of the National Police Commission (NAPOLCOM) v. P/ INSP John A. Mamauag, et al.*[10] docketed as G.R. No. 149999. In the said case, the Court through its First Division ruled that RA 6975 itself does not authorize a private complainant to appeal a decision of the disciplining authority. Explains the Court in said decision:

> RA 6975 itself does not authorize a private complainant to appeal a decision of the disciplining authority. Sections 43 and 45 of RA 6975 authorize "either party" to appeal in the instances that the law allows appeal. One party is the PNP member-respondent when the disciplining authority imposes the penalty of demotion or dismissal from the service. The other party is the government when the disciplining authority imposes the penalty of demotion but the government believes that dismissal from the service is the proper penalty.
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> However, the government party that can appeal is not the disciplining authority or tribunal which previously heard the case and imposed the penalty of demotion or dismissal from the service. The government party appealing must be one that is prosecuting the administrative case against the respondent. Otherwise, an anomalous situation will result where the disciplining authority or tribunal hearing the case, instead of being impartial and detached, becomes an active participant in prosecuting the respondent. Thus, in *Mathay, Jr. v. Court of Appeals*, decided after *Dacoycoy*, the Court declared:
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> > To be sure, when the resolutions of the Civil Service Commission were brought before the Court of Appeals, the Civil Service Commission was included only as a nominal party. As a quasi-judicial body, the Civil Service Commission can be likened to a judge who should "detach himself from cases where his decision is appealed to a higher court for review."
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> > In instituting G.R. No. 126354, the Civil Service Commission dangerously departed from its role as adjudicator and became an advocate. Its mandated function is to "hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments and to review decisions and actions of its offices and agencies," not to litigate.
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> In any event, a private complainant like Judge Angeles is not one of "either party" who can appeal under Sections 43 and 45 of RA 6975. The private complainant is a mere witness of the government which is the real party in interest. In short, private complainant Judge Angeles is not a party under Sections 43 and 45 who can appeal the decision of the disciplining authority.