

EN BANC

[G.R. No. 169013, December 16, 2008]

**DEPARTMENT OF EDUCATION, REPRESENTED BY ITS OFFICER-
IN-CHARGE AND UNDERSECRETARY, RAMON C. BACANI,
PETITIONER, VS. GODOFREDO G. CUANAN, RESPONDENT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] dated May 16, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 87499 which set aside Resolution No. 041147 dated October 22, 2004 of the Civil Service Commission (CSC) finding respondent Godofredo G. Cuanan (Cuanan) guilty of sexual harassment and dismissing him from service, and the CA Resolution^[2] dated July 18, 2005 which denied the Motion for Reconsideration of the Department of Education (DepEd).

The factual background of the case is as follows:

On March 11, 1996, Luzviminda Borja and Juliana Castro, on behalf of their respective minor daughters, Lily Borja and Charo Castro, filed before the Department of Education, Culture and Sports - Regional Office No. III (DECS-RO No. III), Cabanatuan City, two separate administrative complaints^[3] for Sexual Harassment and Conduct Unbecoming a Public Officer against Cuanan, then Principal of Lawang Kupang Elementary School in San Antonio, Nueva Ecija.

Acting on the complaints, DECS-RO No. III Regional Director Vilma L. Labrador constituted an Investigating Committee, composed of three DepEd officials from the province, to conduct a formal investigation. Following the investigation, the Investigating Committee submitted its Investigation Report^[4] dated December 14, 1999, finding Cuanan guilty of sexual harassment and recommending his forced resignation without prejudice to benefits. In a Decision^[5] dated January 28, 2000, Regional Director Labrador concurred in the findings of the Investigating Committee and meted out the penalty of forced resignation to Cuanan without prejudice to benefits.

In an Order^[6] dated April 13, 2000, then DepEd Secretary Andrew Gonzales affirmed the Decision of Regional Director Labrador. On May 30, 2000, Cuanan filed a Petition for Reconsideration^[7] thereof, but the same was denied for lack of merit by Secretary Gonzales in a Resolution^[8] dated June 19, 2000.

Cuanan elevated his case to the CSC. On January 20, 2003, the CSC issued Resolution No. 030069,^[9] which set aside the June 19, 2000 Resolution of Secretary Gonzales and exonerated Cuanan from the charge of sexual harassment. On January

23, 2003, copies of the resolution were duly sent to the parties, including the DepEd.^[10] Cuanan received a copy of Resolution No. 030069 on January 31, 2003.^[11]

In a Letter dated February 3, 2003, Cuanan requested his reinstatement as Elementary School Principal I.^[12] In a 1st Indorsement, the District Supervisor recommended appropriate action.^[13] In a 2nd Indorsement dated February 4, 2003, Schools Division Superintendent Dioscorides D. Lusung (Superintendent) recommended that Cuanan be reinstated to duty as School Principal of San Antonio District upon finality of the decision of the CSC.^[14] In a Letter^[15] dated February 10, 2003, Regional Director Ricardo T. Sibug informed the Superintendent that Cuanan could not be immediately reinstated to the service until an order of implementation was received from the Department Secretary.

Sometime in March 2003, DepEd Undersecretary Jose Luis Martin C. Gascon sent a letter to the CSC requesting a copy of CSC Resolution No. 030069 dated January 20, 2003. In a Letter^[16] dated March 25, 2003, the CSC informed the DepEd that a copy of the requested resolution was duly sent to it on January 23, 2003. Nonetheless, the CSC sent another copy of the resolution to the DepEd for its reference. The DepEd received said reference copy on March 28, 2003.^[17]

On April 11, 2003, then DepEd Secretary Edilberto C. de Jesus filed a Petition for Review/Reconsideration^[18] with the CSC. No copy of the pleading was served upon Cuanan.

On July 29, 2003, Secretary De Jesus filed a Supplemental Petition for Review/Reconsideration ^[19] reiterating the prayer for reversal of the resolution. Again, no copy of the pleading was served upon Cuanan.

Subsequently, pursuant to Division Special Order No. 001 series of 2003 dated June 18, 2003, Cuanan was reinstated to his former position as school principal effective April 30, 2003.^[20] In Division Special Order No. 285, series of 2003 dated July 8, 2003, Cuanan was directed to return to duty.^[21] Based thereon, Cuanan requested payment of salaries and his inclusion in the payroll, which the Division School Superintendent of Nueva Ecija duly endorsed on November 7, 2003.^[22]

However, on October 22, 2004, the CSC issued Resolution No. 041147^[23] setting aside CSC Resolution No. 030069 dated January 20, 2003. It found Cuanan guilty of Sexual Harassment, Grave Misconduct and Conduct Grossly Prejudicial to the Best Interest of the Service and meted out the penalty of dismissal from the service with forfeiture of retirement benefits, cancellation of his service eligibility, and perpetual disqualification from holding public office. Cuanan received a copy of the Resolution on November 9, 2004.^[24]

Thirteen days later, or on November 22, 2004, Cuanan filed a petition for *certiorari* ^[25] with the CA seeking to annul Resolution No. 041147, alleging that the CSC should not have entertained the petition for review/reconsideration since the DepEd was not the complainant or the party adversely affected by the resolution; that the petition for review/reconsideration was filed out of time; and that Cuanan was not

furnished copies of the pleadings filed by the DepEd in violation of procedural due process.

The DepEd sought the dismissal of the petition on the ground of improper remedy, the mode of review from a decision of the CSC being a petition for review under Rule 43 of the Rules of Court.

On May 16, 2005, the CA rendered a Decision^[26] granting the petition for *certiorari* and setting aside CSC Resolution No. 041147 dated October 12, 2004. The CA held that while a motion for reconsideration and a petition for review under Rule 43 were available remedies, Cuanan's recourse to a petition for *certiorari* was warranted, since the act complained of was patently illegal; that the CSC gravely abused its discretion in granting the petition for review/reconsideration filed by the DepEd without regard for Cuanan's fundamental right to due process, since he was not duly notified of the petition for review/reconsideration, nor was he required by the CSC to file a comment thereon, much less, given a copy of the said petition; that the DepEd failed to establish that the resolution was not yet final and executory when it filed its petition for review/reconsideration.

DepEd filed a Motion for Reconsideration,^[27] but the CA denied the same in its Resolution^[28] dated July 18, 2005.

Hence, the present petition on the following grounds:

I

WITH DUE RESPECT, THE COURT OF APPEALS GRAVELY ERRED ON A QUESTION OF LAW IN TAKING COGNIZANCE OF THE PETITION IN CA-G.R. SP NO. 87499, THE SAME NOT BEING THE PROPER REMEDY IN ASSAILING CSC RESOLUTION NO. 041147 DATED OCTOBER 22, 2004.

II

WITH DUE RESPECT, THE COURT OF APPEALS GRAVELY ERRED ON A QUESTION OF LAW IN ADJUDGING CSC AS HAVING COMMITTED GRAVE ABUSE OF DISCRETION IN ISSUING RESOLUTION NO. 041147 DATED OCTOBER 22, 2004.^[29]

DepEd contends that the CA should have dismissed outright the petition for *certiorari* because CSC decisions are appealable to the CA by petition for review under Rule 43; that the filing of a motion for reconsideration was a precondition to the filing of a petition for *certiorari* under Rule 65; that the DepEd, even if not the complainant, may question the resolution of the CSC; that Cuanan failed to prove that the CSC's petition for review/reconsideration was not seasonably filed; that even if Cuanan was not served a copy of the pleadings filed by the DepEd, the CSC was not bound by procedural rules.

Cuanan, on the other hand, contends that the DepEd cannot file a motion for reconsideration from the CSC Resolution exonerating him, since it is not the complainant in the administrative case and therefore not a party adversely affected by the decision therein; that even if DepEd may seek reconsideration of the CSC Resolution, the petition for review/reconsideration was filed out of time; and that

Cuanan's right to due process was violated when he was not given a copy of the pleadings filed by the DepEd or given the opportunity to comment thereon.

The Court finds it necessary, before delving on the grounds relied upon by the DepEd in support of the petition, to first resolve the question of whether the DepEd can seek reconsideration of the CSC Resolution exonerating Cuanan.

In a long line of cases, beginning with *Civil Service Commission v. Dacoycoy*,^[30] and reiterated in *Philippine National Bank v. Garcia, Jr.*,^[31] the Court has maintained that the disciplining authority qualifies as a party adversely affected by the judgment, who can file an appeal of a judgment of exoneration in an administrative case. CSC Resolution No. 021600^[32] allows the disciplining authority to appeal from a decision exonerating an erring employee, thus:

Section 2. *Coverage and Definition of Terms.* - x x x (I) PARTY ADVERSELY AFFECTED refers to the respondent against whom a decision in a disciplinary case has been rendered or **to the disciplining authority in an appeal from a decision exonerating the said employee.** (Emphasis supplied)

Hence, Cuanan's exoneration under CSC Resolution No. 030069 may be subject to a motion for reconsideration by the DepEd which, as the appointing and disciplining authority, is a real party in interest.

Now, as to the merits of DepEd's arguments, the Court finds none.

The remedy of an aggrieved party from a resolution issued by the CSC is to file a petition for review thereof under Rule 43^[33] of the Rules of Court within fifteen days from notice of the resolution. Recourse to a petition for *certiorari* under Rule 65 renders the petition dismissible for being the wrong remedy. Nonetheless, there are exceptions to this rule, to wit: (a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; **(c) when the writs issued are null and void** ; or (d) when the questioned order amounts to an oppressive exercise of judicial authority.^[34] As will be shown forthwith, exception (c) applies to the present case.

Furthermore, while a motion for reconsideration is a condition precedent to the filing of a petition for *certiorari*, immediate recourse to the extraordinary remedy of *certiorari* is warranted where the order is a patent nullity, as where the court *a quo* has no jurisdiction; where petitioner was deprived of due process and there is extreme urgency for relief; where the proceedings in the lower court are a nullity for lack of due process; where the proceeding was *ex parte* or one in which the petitioner had no opportunity to object.^[35] These exceptions find application to Cuanan's petition for *certiorari* in the CA.

At any rate, Cuanan's petition for *certiorari* before the CA could be treated as a petition for review, the petition having been filed on November 22, 2004, or thirteen (13) days from receipt on November 9, 2004 of CSC Resolution No. 041147, clearly within the 15-day reglementary period for the filing of a petition for review.^[36] Such move would be in accordance with the liberal spirit pervading the Rules of Court and in the interest of substantial justice.^[37]