

EN BANC

[G.R. NO. 169604, March 06, 2007]

NELSON P. COLLANTES, PETITIONER, VS. HON. COURT OF APPEALS, CIVIL SERVICE COMMISSION AND DEPARTMENT OF NATIONAL DEFENSE, RESPONDENTS.

DECISION

CHICO-NAZARIO, J.:

A decision that has acquired finality becomes immutable and unalterable. A final judgment may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law; and whether it be made by the court that rendered it or by the highest court in the land.^[1]

What would happen, however, if two separate decisions, irreconcilably conflicting with each other, both attained finality? Quite clearly, to hold that both decisions are immutable and unalterable would cause not only confusion and uncertainty, but utter bewilderment upon the persons tasked to execute these judgments.

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, seeking to set aside the Decision^[2] dated 10 March 2005 and the Resolution^[3] dated 31 August 2005 of the Court of Appeals in CA-G.R. SP No. 78092.

The undisputed facts of this case are summarized by the Court of Appeals:

Petitioner Nelson Collantes (hereafter, Collantes) was conferred Career Executive Service Eligibility on 29 February 1996. Then President Fidel V. Ramos accorded him the rank of Career Executive Service Officer (CESO) II on 10 February 1997. More than a year later, he was appointed as Undersecretary for Peace and Order of the Department of Interior and Local Government (DILG).

With the change of administration, Collantes allegedly received word from persons close to then President Ejercito Estrada to give up his position so that the President could unreservedly appoint his key officials. As such, Collantes relinquished his post at the DILG.

Thereafter, on 1 July 1998, President Estrada appointed Collantes to the controversial post - Undersecretary for Civilian Relations of the Department of National Defense (DND). As it happened, his stint in the DND was short lived. Collantes was supposedly ordered by then Secretary Orlando Mercado to renounce his post in favor of another presidential appointee, General Orlando Soriano. In deference to the President's prerogative, he resigned from office believing that he will soon be given a new assignment.

Unfortunately, Collantes was not given any other post in the government, as in fact, he received a letter from President Estrada terminating his services effective 8 February 1999. Consequently, on 24 March 1999, Collantes requested the assistance of the Career Executive Service Board relative to the termination of his services as Undersecretary for Civilian Relations of the DND invoking his right to security of tenure as a CESO.

The termination of Collantes' services, notwithstanding, President Estrada accorded Collantes the highest rank in the CES ranking structure, CESO Rank I, on 17 July 1999. But then, despite this promotion in rank, Collantes did not receive new appointment, and worse, the President appointed Mr. Edgardo Batenga to the much coveted position of Undersecretary for Civilian Relations of the DND.

Taking definite action on the matter, Collantes instituted a Petition for Quo Warranto and Mandamus before Us on 29 January 2001, docketed as C.A. G.R. SP NO. 62874. Collantes maintained that he was constructively dismissed from work, without any cause and due process of law, and thus, his position in the DND was never vacated at all. Accordingly, he prayed that the appointment of Mr. Edgardo Batenga be nullified, and that he be reinstated to his former position with full back salaries. Notably, Collantes also sought for appointment to a position of equivalent rank commensurate to his CESO Rank I if reinstatement to his former position is no longer legally feasible.

Meanwhile, on 13 August 2001, the CSC favorably acted on Collantes' letter-request issuing Resolution No. 011364, and thereby holding that Collantes' relief as Undersecretary of DND amounted to illegal dismissal as he was not given another post concomitant to his eligibility.

Then, on 30 August 2001, We rendered Our Decision in C.A. G.R. SP No. 62874 dismissing the Petition for Quo Warranto and Mandamus filed by Collantes. Significantly, We pronounced:

"By such actuations of the petitioner, the Court finds that he has (sic) effectively resigned from his position as Undersecretary of the DND, and the public respondents are under no compulsion to reinstate him to his old position.

x x x x

"In this case, petitioner has undoubtedly shown his intention to relinquish his public office, and has in fact surrendered such post to the Chief Executive, who, on the other hand, has shown his acceptance of the same by appointing a new person to the position relinquished by the petitioner.

x x x x

Quo warranto, it must be pointed out, is unavailing in the instant case, as the public office in question has not been

usurped, intruded into or unlawfully held by the present occupant. Nor does the incumbent undersecretary appear to have done or suffered an act which forfeits his assumption. (Section 1, Rule 66, 1997 Rules of Civil Procedure). Furthermore, it appears that the action for quo warranto, assuming it is available, has already lapsed by prescription, pursuant to Section 11 of the pertinent Rule ...

x x x x

WHEREFORE, premises considered, the instant petition for Quo Warranto and Mandamus is hereby DISMISSED."

The controversy reached the Supreme Court as G.R. No. 149883. Nevertheless, the case was considered closed and terminated when Collantes manifested his desire not to pursue his appeal and withdraw his Petition for Review on Certiorari. Thereafter, Collantes moved for the execution of CSC Resolution No. 011364, which was accordingly granted through CSC Resolution No. 020084 dated 15 January 2002 "directing the DND to give Collantes a position where his eligibility is appropriate and to pay his backwages and other benefits from the time of his termination up to his actual reinstatement."

In a Letter dated 7 February 2002, the Legal Affairs Division of the DND, through Atty. Leticia A. Gloria, urged the CSC to revisit its Resolutions which were entirely in conflict with Our 30 August 2001 Decision in C.A. G.R. SP NO. 62874, which has attained finality pursuant to the Supreme Court's Resolution in G.R. No. 149883.

Consequently, in complete turnabout from its previous stance, the CSC issued Resolution No. 021482 dated 12 November 2002 declaring that had it been properly informed that a Petition for Quo Warranto and Mandamus was then pending before Us, it would have refrained from ruling on Collantes' quandary, thus:

"WHEREFORE, the Motion for Reconsideration of Assistant Secretary for Legal Affairs Leticia A. Gloria of the department of National Defense (DND) is hereby GRANTED and CSC Resolutions Nos. 01-1364 dated August 13, 2001 and 02-0084 dated January 15, 2002 are reversed. Accordingly, pursuant to the decision of the Court of Appeals, Nelson P. Collantes is deemed effectively resigned from his position as Undersecretary of the DND."

Forthwith, Collantes moved for a reconsideration of this Resolution, but was denied by the CSC in the second assailed Resolution No. 030542 dated 5 May 2003.^[4]

On 18 July 2003, herein petitioner Collantes then filed a Petition for *Certiorari* with the Court of Appeals praying for the reversal of the Civil Service Commission (CSC) Resolutions No. 021482 and No. 030542. Before the Court of Appeals can decide this case, however, petitioner was appointed as General Manager of the Philippine

Retirement Authority on 5 August 2004. The Court of Appeals dismissed the Petition for *Certiorari* in the assailed 10 March 2005 Decision:

WHEREFORE, the Petition for Certiorari is hereby DISMISSED. No grave abuse of discretion may be imputed against the Civil Service Commission for rendering Resolution Nos. 021482 and 030542, dated 12 November 2002 and 5 May 2003, respectively. No pronouncement as to costs.^[5]

The Motion for Reconsideration filed by petitioner was denied in the assailed 31 August 2005 Resolution.^[6]

Petitioner filed the present Petition for Review, seeking the reversal of the foregoing Decision and Resolution of the Court of Appeals. In view of his 5 August 2004 appointment, however, petitioner's prayer is now limited to seeking the payment of backwages and other benefits that may have been due him from the time of his alleged dismissal on 8 February 1999 to his appointment on 5 August 2004. Petitioner submits the following issues for our consideration:

A.

WHETHER THE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR WHEN IT HELD THAT THE DECISION IN CA-G.R. NO. 62874 IN THE COURT OF APPEALS IS A BAR TO IMPLEMENT THE FINAL AND EXECUTORY JUDGMENT OF THE CIVIL SERVICE COMMISSION DATED AUGUST 14, 2001.

B.

WHETHER THE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR WHEN IT DID NOT FIND THAT THE CIVIL SERVICE COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT REVERSED ITS VERY OWN DECISION WHICH HAS LONG BECOME FINAL AND EXECUTORY AND IN FLAGRANT VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS.

C.

WHETHER THE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR WHEN IT UPHELD THE RESOLUTION OF THE CIVIL SERVICE COMMISSION WHICH HELD THAT PETITIONER MAY BE REMOVED FROM HIS POSITION AS UNDERSECRETARY OF THE DEPARTMENT OF NATIONAL DEFENSE WITHOUT THE CONCOMITANT TRANSFER TO A POSITION EQUIVALENT IN RANK OR BE REMOVED THEN, BE FLOATED PERPETUALLY, WHICH IS TANTAMOUNT TO A CONSTRUCTIVE DISMISSAL, IN VIOLATION OF HIS RIGHT TO SECURITY OF TENURE AS A CAREER EXECUTIVE SERVICE ELIGIBLE.^[7]

Both petitioner and herein respondents CSC and Department of National Defense (DND) invoke the doctrine of immutability of final judgments.

Petitioner claims that the 13 August 2001 Resolution of the CSC, which held that petitioner "was illegally removed as Undersecretary of the Department of National

Defense and therefore x x x should be given a position where his eligibility is appropriate or sufficient," has attained finality. Petitioner adds that, not only has there been no appeal or motion for reconsideration filed within the allowable periods, the CSC even granted the Motion for Execution filed by petitioner in its Order dated 15 January 2002. Petitioner thereby invokes our ruling that, before a writ of execution may issue, there must necessarily be a final judgment or order that disposes of the action or proceeding.^[8] Petitioner also faults the CSC for ruling on a mere letter filed by Atty. Leticia Gloria of the DND, which petitioner claims is fatally defective for failure to comply with the procedural due process clause of the Constitution, the Rules of Court, and the Uniform Rules in Administrative Cases in the Civil Service which require notice to adverse parties.^[9]

Respondents, on the other hand, invoke the same doctrine of immutability of final judgments, this time with respect to the 30 August 2001 Decision of the Court of Appeals dismissing the Petition for *Quo Warranto* and *Mandamus* filed by petitioner. This Court of Appeals Decision became final and executory when petitioner withdrew the Motion for Extension to File a Petition for Review on *Certiorari* he filed with this Court.^[10]

Forum Shopping, Res Judicata, and Litis Pendentia

Our rules on forum shopping are meant to prevent such eventualities as conflicting final decisions as in the case at bar. We have ruled that what is important in determining whether forum shopping exists or not is the vexation caused the courts and parties-litigants by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issues.^[11]

More particularly, the elements of forum shopping are: (a) identity of parties or at least such parties as represent the same interests in both actions; (b) identity of the rights asserted and the reliefs prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.^[12]

Forum shopping can be committed in three ways: (1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).^[13] If the forum shopping is not considered willful and deliberate, the *subsequent cases* shall be dismissed *without prejudice* on one of the two grounds mentioned above. However, if the forum shopping is willful and deliberate, *both* (or *all*, if there are more than two) actions shall be dismissed *with prejudice*.^[14]

Petitioner disputes respondents' claim, and the CSC's ruling,^[15] that he had lodged