

## THIRD DIVISION

[ G.R. No. 149072, September 21, 2007 ]

**ESTHER S. PAGANO, PETITIONER, VS. JUAN NAZARRO, JR.,  
ROSALINE Q. ELAYDA, RODRIGO P. KITO AND ERNESTO M.  
CELINO, RESPONDENTS.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision<sup>[1]</sup> dated 7 March 2001, rendered by the Court of Appeals in CA-G.R. SP No. 53323. In reversing the Decision,<sup>[2]</sup> dated 4 January 1999, rendered by Branch 10 of the Regional Trial Court of La Trinidad, Benguet, the Court of Appeals declared that the petitioner, Esther S. Pagano, may still be held administratively liable for dishonesty, grave misconduct and malversation of public funds through falsification of official documents.

While the petitioner was employed as Cashier IV of the Office of the Provincial Treasurer of Benguet, it was discovered that in her accountabilities she had incurred a shortage of ₱1,424,289.99. On 12 January 1998, the Provincial Treasurer wrote a letter directing petitioner to explain why no administrative charge should be filed against her in connection with the cash shortage.<sup>[3]</sup> Petitioner submitted her explanation on 15 January 1998.<sup>[4]</sup>

On 16 January 1998, petitioner filed her Certificate of Candidacy for the position of Councilor in Baguio City.<sup>[5]</sup>

On 22 January 1998, the Office of the Provincial Governor of Benguet found the existence of a *prima facie* case for dishonesty, grave misconduct and malversation of public funds through falsification of official documents and directed the petitioner to file an answer.<sup>[6]</sup> The Provincial Governor also issued Executive Order No. 98-02, creating an *ad hoc* committee composed of herein respondents to investigate and submit findings relative to the administrative charges against petitioner.<sup>[7]</sup>

On 10 February 1998, petitioner filed her Answer before the Office of the Provincial Governor. Petitioner alleged that she had merely acted under the express direction of her supervisor, Mr. Mauricio B. Ambanloc. She further claimed that the funds and checks were deposited in the depository banks of the Province of Benguet, but the records are devoid of any documents to support her claim.<sup>[8]</sup>

On 19 February 1998, petitioner filed a motion to dismiss the administrative case on the ground that the committee created to investigate her case had no jurisdiction over the subject of the action and over her person.<sup>[9]</sup> The respondents denied the

said motion on 21 May 1998.<sup>[10]</sup> Petitioner filed a motion for reconsideration, which was again denied on 1 July 1998.<sup>[11]</sup>

On 14 August 1998, petitioner filed a Petition for *Certiorari* and Prohibition with prayer for issuance of a Temporary Restraining Order and Writ of Preliminary Injunction before Branch 10 of the Regional Trial Court of La Trinidad, Benguet. The trial court issued a Writ of Preliminary Injunction on 7 September 1998.<sup>[12]</sup>

In the course of the audit and examination of the petitioner's collection accounts, the Commission on Audit (COA) discovered that the petitioner was unable to account for P4,080,799.77, and not just the initial cash shortage of P1,424,289.99. Thus, the COA Provincial Auditor, Getulio B. Santos, reported these findings to the Office of the Ombudsman in a letter dated 11 September 1998 with the recommendation that civil, criminal and administrative cases be filed against petitioner.<sup>[13]</sup>

In its Decision, dated 4 January 1999, the trial court ruled in favor of the petitioner. It noted that the most severe penalty which may be imposed on the petitioner is removal from service, and that under Section 66 of the Omnibus Election Code, petitioner was already deemed resigned when she filed her Certificate of Candidacy on 16 January 1998. Section 66 of the Omnibus Election Code provides that:

Any person holding a public appointive office or position, including active members of the Armed Forces of the Philippines, and officers and employees in government-owned or controlled corporations, shall be considered *ipso facto* resigned from his office upon the filing of his certificate of candidacy.

Thus, it declared that even if the committee created by the Provincial Governor had the jurisdiction to hear the administrative case against the petitioner, such case was now moot and academic.<sup>[14]</sup> The dispositive part of the said Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of petitioner Esther Sison Pagano and against herein respondents:

1. Finding that the Committee of which the respondents are members has no longer jurisdiction to conduct any investigation or proceedings under civil service rules and regulations relative to the administrative case filed against the petitioner;
2. Finding that the Committee has acted with grave abuse of discretion and without jurisdiction in denying the Motion to Dismiss filed by the petitioner in Administrative Case No. 98-01;
3. Declaring as null and void all acts, orders, resolutions and proceedings of the Committee in Administrative Case No. 98-01;
4. Ordering the respondents, their agents, representatives and all persons acting on their behalf, to desist from proceeding with Administrative Case No. 98-01; and

5. Declaring the writ of preliminary injunction dated September 07, 1998 as permanent.

No pronouncement as to costs.<sup>[15]</sup>

Respondents filed an appeal before the Court of Appeals. In reversing the Decision of the trial court, the appellate court pronounced that even though petitioner's separation from service already bars the imposition upon her of the severest administrative sanction of separation from service, other imposable accessory penalties such as disqualification to hold government office and forfeiture of benefits may still be imposed.<sup>[16]</sup>

Petitioner filed a Motion for Reconsideration of the Decision of the Court of Appeals, which was denied in a Resolution dated 10 July 2001.<sup>[17]</sup>

Hence, in the present Petition, the sole issue is being raised:

WHETHER OR NOT A GOVERNMENT EMPLOYEE WHO HAS BEEN SEPARATED FROM THE CIVIL SERVICE BY OPERATION OF LAW PURSUANT TO SECTION 66 OF BATAS PAMBANSA BILANG 881 (THE OMNIBUS ELECTION CODE) MAY STILL BE ADMINISTRATIVELY CHARGED UNDER CIVIL SERVICE LAWS, RULES AND REGULATIONS<sup>[18]</sup>

Petitioner argues that a government employee who has been separated from service, whether by voluntary resignation or by operation of law, can no longer be administratively charged. Such argument is devoid of merit.<sup>[19]</sup>

In *Office of the Court Administrator v. Juan*,<sup>[20]</sup> this Court categorically ruled that the precipitate resignation of a government employee charged with an offense punishable by dismissal from the service **does not** render moot the administrative case against him. Resignation is not a way out to evade administrative liability when facing administrative sanction. The resignation of a public servant does not preclude the finding of any administrative liability to which he or she shall still be answerable.<sup>[21]</sup>

A case becomes moot and academic only when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits of the case.<sup>[22]</sup> The instant case is not moot and academic, despite the petitioner's separation from government service. Even if the most severe of administrative sanctions - that of separation from service - may no longer be imposed on the petitioner, there are other penalties which may be imposed on her if she is later found guilty of administrative offenses charged against her, namely, the disqualification to hold any government office and the forfeiture of benefits.

Moreover, this Court views with suspicion the precipitate act of a government employee in effecting his or her separation from service, soon after an administrative case has been initiated against him or her. An employee's act of tendering his or her resignation immediately after the discovery of the anomalous transaction is indicative of his or her guilt as flight in criminal cases.<sup>[23]</sup>

In the present case, the Provincial Treasurer asked petitioner to explain the cash

shortage of ₱1,424,289.99, which was supposedly in her custody on 12 January 1998. In her explanation, dated 15 January 1998, petitioner failed to render a proper accounting of the amount that was placed in her custody; instead, she tried to shift the blame on her superior. Thus, the hasty filing of petitioner's certificate of candidacy on 16 January 1998, a mere four days after the Provincial Treasurer asked her to explain irregularities in the exercise of her functions appears to be a mere ploy to escape administrative liability.

Public service requires utmost integrity and discipline. A public servant must exhibit at all times the highest sense of honesty and integrity for no less than the Constitution mandates the principle that "a public office is a public trust and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency."<sup>[24]</sup> The Courts cannot overemphasize the need for honesty and accountability in the acts of government officials. In *Baquerfo v. Sanchez*,<sup>[25]</sup> this Court reproached a government employee for the theft of two unserviceable desk fans and one unserviceable stove. Moreover, the Court refused to take into account the subsequent resignation of the said government employee. In the aforecited case, this Court emphatically declared that:

Cessation from office of respondent by resignation or retirement neither warrants the dismissal of the administrative complaint filed against him while he was still in the service nor does it render said administrative case moot and academic. The jurisdiction that was this Court's at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case. Respondent's resignation does not preclude the finding of any administrative liability to which he shall still be answerable.

<sup>[26]</sup>

Unlike the previously discussed case (*Baquerfo*), the present one does not involve unserviceable scraps of appliances. The petitioner was unable to account for an amount initially computed at ₱1,424,289.99, and later recomputed by the COA at ₱4,080,799.77. With all the more reason, this Court cannot declare petitioner immune from administrative charges, by reason of her running for public office.

In the very recent case, *In re: Non-disclosure before the Judicial and Bar Council of the Administrative Case Filed Against Judge Jaime V. Quitain, in His Capacity as the then Assistant Regional Director of the National Police Commission, Regional Office XI, Davao City*,<sup>[27]</sup> this Court pronounced the respondent judge guilty of grave misconduct, despite his resignation:

Verily, the resignation of Judge Quitain which was accepted by the Court without prejudice does not render moot and academic the instant administrative case. The jurisdiction that the Court had at the time of the filing of the administrative complaint is not lost by the mere fact that the respondent judge by his resignation and its consequent acceptance — without prejudice — by this Court, has ceased to be in office during the pendency of this case. x x x. A contrary rule would be fraught with injustice and pregnant with dreadful and dangerous implications. Indeed, if innocent, the respondent official merits vindication of his name and integrity as he leaves the government which he has served well and

faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation.

This Court cannot countenance the petitioner's puerile pretext that since no administrative case had been filed against her during her employment, she can no longer be administratively charged. Section 48, Chapter 6, Subtitle A, Title I, Book V of Executive Order No. 292, also known as the Administrative Code of 1987, provides for the initiation of administrative proceedings by the proper personalities as part of the procedural process in administrative cases:

*Section 48. Procedures in Administrative Cases Against Non-Presidential Appointees.* (1) Administrative proceedings may be commenced against a subordinate officer or employee by the Secretary or head of office of equivalent rank, or head of local government, or chiefs of agencies, or regional directors, or upon sworn, written complaint of any other person.

At the time petitioner filed her certificate of candidacy, petitioner was already notified by the Provincial Treasurer that she needed to explain why no administrative charge should be filed against her, after it discovered the cash shortage of ₱1,424,289.99 in her accountabilities. Moreover, she had already filed her answer. To all intents and purposes, the administrative proceedings had already been commenced at the time she was considered separated from service through her precipitate filing of her certificate of candidacy. Petitioner's bad faith was manifest when she filed it, fully knowing that administrative proceedings were being instituted against her as part of the procedural due process in laying the foundation for an administrative case.

To support her argument that government employees who have been separated can no longer be administratively charged, petitioner cites the following cases: *Diamalon v. Quintillian*,<sup>[28]</sup> *Vda. de Recario v. Aquino*,<sup>[29]</sup> *Zamudio v. Penas, Jr.*,<sup>[30]</sup> *Pardo v. Cunanan*,<sup>[31]</sup> and *Mendoza v. Tiongson*.<sup>[32]</sup> A piecemeal reference to these cases is too insubstantial to support the petitioner's allegation that her separation from government service serves as a bar against the filing of an administrative case for acts she committed as an appointive government official. In order to understand the Court's pronouncement in these cases, they must be examined in their proper contexts.

In *Diamalon v. Quintillian*,<sup>[33]</sup> a complaint for serious misconduct was filed against the respondent judge questioning his issuance of a warrant of arrest without the presence of the accused. A cursory review of the facts in this case shows that the administrative complaint lacks basis, as there is nothing irregular in the act of the respondent judge in issuing a warrant of arrest without the presence of the accused during the hearing for such issuance. After the case was filed, the respondent judge became seriously ill and his application for retirement gratuity could not be acted upon because of the pending administrative case against him. Thus, the Court, out of Christian justice, dismissed the administrative case against the respondent who was to retire and desperately needed his retirement benefits.

In *Vda. de Recario v. Aquino*,<sup>[34]</sup> an administrative case was filed against the respondent judge for failure to immediately act on a case for prohibition. In dismissing the complaint against the judge, the Court ruled that "there are no indications of bad faith on the part of the respondent judge when he set for hearing