

EN BANC

[G.R. NO. 161733, October 11, 2005]

CIVIL SERVICE COMMISSION, PETITIONER, VS. ARNULFO A. SEBASTIAN, RESPONDENT.

G.R. NO. 162463

**MUNICIPALITY OF KABASALAN, ZAMBOANGA SIBUGAY AND
MAYOR FREDDIE I. CHU, PETITIONERS, VS. COURT OF APPEALS
AND ARNULFO A. SEBASTIAN, RESPONDENTS.**

D E C I S I O N

CALLEJO, SR., J.:

Before us are two (2) consolidated petitions filed under Rule 45 and Rule 65 of the Revised Rules of Civil Procedure for the reversal of the No. 61776. Decision^[1] of the Court of Appeals (CA) and its Resolution in CA-G.R. SP No. 61776.

The Antecedents

On August 1, 1988, Arnulfo A. Sebastian was given a permanent appointment as Municipal Secretary of Kabasalan, Zamboanga del Sur (Sibugay), effective August 1, 1988.^[2]

Sometime in April 1992, Sebastian complained of acute gastric ulcer. His doctor, Dr. Corregidor Catane, advised him to take several months' rest from work. Dr. Catane wrote the Vice-Mayor advising the latter about Sebastian's condition.^[3] On May 4, 1992, Sebastian filed his application for vacation leave for 44 working days covering the period of July 1, 1992 to August 31, 1992.^[4] He also filed his sick leave application for 88 working days, from September 1, 1992 to December 31, 1992.^[5] Both applications for leave were approved by then Acting Vice-Mayor Jose Cayon, with the condition that his sick leave was without pay. The applications were not submitted to the Mayor for approval; neither did Sebastian receive any clearance from the Mayor.

After the elections in May 1992, Freddie Chu and Catalino Genito, Jr. were the elected Mayor and Vice-Mayor, respectively, of Kabasalan, Zamboanga del Sur, and assumed office.

In a Letter dated August 25, 1992, Mayor Chu directed Sebastian to report for duty not later than five days from receipt thereof.^[6] Sebastian did not comply with the said directive. On October 13, 1992, Mayor Chu issued a final notice to Sebastian, directing him to report for duty with a warning that should he fail to do so, he would be dropped from the rolls.^[7] Sebastian failed to comply anew.

Sebastian received a Memorandum^[8] dated November 3, 1992 from Mayor Chu informing him that he was dropped from the municipal government's *plantilla* of personnel effective October 30, 1992, as he had been absent without leave since September 1, 1992 upon the expiration of his vacation leave, and that he failed to report for duty within 30 days from approval of his leave of absence.^[9]

Concerned with the plight of Sebastian, six members of the *Sangguniang Bayan* wrote Vice-Mayor Genito and requested that he (Sebastian) be retained as Secretary of the *Sangguniang Bayan*. The matter was elevated to the Civil Service Commission (CSC) Regional Office.^[10]

On March 9, 1994, the CSC Regional Director,^[11] transmitted his 2nd Indorsement^[12] to Vice-Mayor Genito declaring that since he had the authority to appoint all officials and employees of the *Sangguniang Bayan* under Section 445 of the Local Government Code, it was within his power to reinstate Sebastian as *Sangguniang Bayan* Secretary. Hence, should the Vice-Mayor decide to do so, the CSC Regional Office would not interpose any objection thereto. However, Vice-Mayor Genito ignored the indorsement of the CSC Regional Director.^[13]

Almost four years or so after he was dropped from the municipal government's *plantilla*, or on August 2, 1996, Sebastian filed a Complaint^[14] for illegal dismissal before the CSC against Mayor Chu and Vice-Mayor Genito as respondents. Sebastian alleged that he was the *Sangguniang Bayan* and Municipal Secretary, and after the end of his leave, Mayor Chu barred him from reporting to work and from gaining entry into his office at the *Sangguniang Bayan*. Sebastian contended that, despite the proddings of some *Sangguniang Bayan* members, the Vice-Mayor refused to reinstate him. The complaint contained the following prayer:

WHEREFORE, it is respectfully prayed of this Honorable Commission that, judgment be rendered:

- 1.) Declaring the dismissal of the complainant to be illegal and contrary to law;
- 2.) Ordering the respondents the reinstatement of the complainant to his position as Secretary to the *Sangguniang Bayan*;
- 3.) Ordering the respondents to pay the complainant of his backwages and other benefits he is entitled to.^[15]

Vice-Mayor Genito alleged in his answer^[16] that Sebastian was appointed as Municipal Secretary and not as *Sangguniang Bayan* Secretary; hence, it was the Mayor who had the authority to dismiss or reinstate him to the said position. He averred that he did not concur with the Mayor's overt act of terminating Sebastian's services.^[17]

In his comment,^[18] Mayor Chu, maintained that Sebastian was never formally appointed as *Sangguniang Bayan* Secretary. He averred that the complainant abandoned his office; hence, he acted in accord with law in terminating Sebastian's

employment as municipal secretary.^[19]

On July 23, 1998, the CSC issued Resolution No. 981989^[20] dismissing Sebastian's complaint. It ruled that the complainant failed to submit a medical certificate to justify his claim that he was, indeed, sick during the period of his absence; the medical report of Dr. Corregidor Catane was not enough. The CSC also declared that the complainant failed to report for duty for 43 days despite the Mayor's directive, and even failed to inform the Mayor of his whereabouts. The CSC further stated that Sebastian's claim for reinstatement was already barred by laches, considering that he filed his complaint with the CSC only on August 2, 1996, three years from October 30, 1992, the date of his separation from the service. The *fallo* of the CSC Resolution reads:

WHEREFORE, the complaint of Arnulfo A. Sebastian is hereby dismissed. Accordingly, his request for reinstatement to his former position as SB Secretary is hereby denied.^[21]

Sebastian's motion for reconsideration was denied by the CSC through Resolution No. 002012 dated September 4, 2000.^[22]

Sebastian filed his petition with the Court of Appeals (CA) under Rule 43 of the Rules of Court, naming the CSC as the sole respondent and ascribing the following errors:

I.

THAT THE RESPONDENT CIVIL SERVICE COMMISSION GRAVELY ERRED IN NOT FINDING THAT THE PETITIONER WAS DENIED DUE PROCESS;

II.

THAT THE RESPONDENT CIVIL SERVICE COMMISSION GRAVELY ERRED IN NOT FINDING THAT THE TERMINATION OF THE PETITIONER FROM SERVICE WAS ILLEGAL AND POLITICALLY MOTIVATED;

III.

THAT THE RESPONDENT CIVIL SERVICE COMMISSION GRAVELY ERRED IN FINDING THAT THE MUNICIPAL VICE-MAYOR HAD IMPLIEDLY CONCURRED IN THE ORDER OF THE MUNICIPAL MAYOR DROPPING THE PETITIONER FROM SERVICE DESPITE ITS EARLIER CONCLUSION THAT THE VICE-MAYOR AND NOT THE MAYOR WHO IS VESTED WITH AUTHORITY TO TERMINATE A MUNICIPAL SECRETARY;

IV.

THAT THE RESPONDENT CIVIL SERVICE COMMISSION GRAVELY ERRED IN FINDING THAT PETITIONER IS ALREADY BARRED BY LACHES.^[23]

In its comment^[24] to the petition, the CSC, through the Office of the Solicitor General (OSG), averred that the petition was fatally defective because the petitioner impleaded it as respondent instead of Mayor Chu and Vice-Mayor Genito. It posited

that Sebastian was lawfully separated from the service since he failed to report back for work for a considerable length of time^[25] despite due notice. More than three years had elapsed from his dismissal from the government service before he filed his complaint with the CSC; hence, the complainant was barred by laches from questioning his separation from the service.^[26]

The CA rendered judgment granting the petition. It found that the petitioner was deprived of his right to due process when he was dismissed without previous notice and hearing and without any valid cause. Sebastian was justified in not reporting back for work because he was on sick leave duly approved by the Vice-Mayor; thus, he should be reinstated as Municipal Secretary. However, the CA ruled that the petitioner could not be reinstated as *Sangguniang Bayan* Secretary since there was no showing that he had been duly appointed to such position in the first place. The CA declared that Sebastian was not barred by laches from seeking his reinstatement because he waited for the outcome of the well-meaning representations of some members of the *Sangguniang Bayan* who took up the cudgels for him when they referred the matter to the CSC Regional Office. The *fallo* of the CA decision reads:

WHEREFORE, finding merit in the petition, We GRANT the same. The appealed CSC Resolution No. 98-1989 is REVERSED and SET ASIDE. Petitioner is reinstated to his office as Municipal Secretary of Kabasalan, Zamboanga del Sur, with full back salaries and other benefits accorded by law.^[27]

However, the CA failed to resolve the issue of whether or not the petition should be dismissed for the petitioner's failure to implead the Mayor and the Vice-Mayor as parties-respondents.

The OSG filed a motion for the reconsideration of the said decision of the court on the ground that:

With due respect, the August 26, 2002 Decision of this Honorable Court is contrary to our procedural law, resulting in a denial of due process on the part of the real parties-in-interest.^[28]

The Municipality of Kabasalan sought to intervene and filed a Motion to Admit a Motion for the Reconsideration of the CA decision. Appended thereto was a Motion verified by Mayor Chu, also for the reconsideration of the decision. The Municipality averred that it was a real party-in-interest as respondent because the petition was for the alleged payment of backwages. The CA denied the motion of the OSG and merely noted the motion of the Municipality.^[29] The CA ruled that the intervention of the Municipality was inappropriate because judgment had already been rendered. Citing its ruling in *Morales v. Civil Service Commission*,^[30] it held that the respondent CSC was the proper party-in-interest because there was no private respondent. The appellate court, likewise, declared that the CSC was estopped from claiming that the petition was defective for Sebastian's failure to implead the Mayor and the Vice-Mayor as parties-respondents. The CA held that the CSC should have raised the issue in its comment on the petition.

Forthwith, the CSC, as the petitioner, filed its petition for review on *certiorari* under Rule 45 of the Rules of Court, docketed as G.R. No. 161733. The Municipality of Kabasalan, Zamboanga Sibugay and Mayor Freddie Chu filed a separate petition for

certiorari under Rule 65 with a prayer for the issuance of a restraining order and/or preliminary injunction, alleging that the CA committed grave abuse of discretion amounting to excess or lack of jurisdiction in reversing the assailed Resolution of the CSC. The petition was docketed as G.R. No. 162463.^[31] On April 13, 2004, the Court resolved to consolidate G.R. No. 162463 with G.R. No. 161733.^[32]

Petitioner CSC asserts that it is not the real party-in-interest in the present case. It posits that the Mayor and the Vice-Mayor of Kabasalan, Zamboanga del Sur (Sibugay), who stood to be benefited or injured by the judgment, are the real parties-in-interest. Petitioner CSC contends that failure to implead the real parties-in-interest constitutes a denial of due process, as they were not afforded the opportunity to air their side on the matter when the case was brought before the CA. Petitioner CSC relies on Section 6, Rule 43 of the Revised Rules of Court, which provides, among others, that the petition filed under it shall be made without impleading the court or agencies which rendered the assailed decision or resolution, either as petitioners or respondents; and that under Section 7 of the same Rule, failure to comply with the requirements shall be sufficient ground for the dismissal of the petition.

Petitioners Municipality of Kabasalan and Mayor Chu, for their part, posit that the CA gravely abused its discretion when it failed to dismiss the petition for respondent Sebastian's failure to implead them as parties-respondents, and merely noted their motion to intervene in CA-G.R. SP No. 61776. They aver that they were indispensable parties as respondents in the CA, and should have been allowed to intervene and be heard on the issues. Unless impleaded, they would not be bound by the CA decision.

The Court is posed to resolve the following issues: (1) whether petitioner Mayor is the real party-in-interest as respondent in the CA; and (2) whether or not respondent Sebastian had been illegally dismissed by petitioner Mayor Freddie Chu as Municipal Secretary.

Section 6, Rule 43, of the Rules of Civil Procedure provides that a petition for review shall state in full the names of the parties to the case. The court or agency which rendered the decision or resolution is not to be impleaded either as petitioner or respondent, viz.:

SEC. 6. *Contents of the petition.* The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein.

The parties in the proceedings before an agency or in the lower court are the parties in a petition for review in the CA. We agree with the contention of the petitioners