

SECOND DIVISION

[G.R. No. 132248, January 19, 2000]

**HON. ERLINDA C. PEFIANCO, IN HER CAPACITY AS SECRETARY
OF THE DEPARTMENT OF EDUCATION, CULTURE AND SPORTS,
PETITIONER, VS. MARIA LUISA C. MORAL, RESPONDENT.**

D E C I S I O N

BELLOSILLO, J.:

SECRETARY ERLINDA C. PEFIANCO of the Department of Education, Culture and Sports (DECS) seeks to nullify through this petition for review the Decision of the Court of Appeals^[1] dismissing the petition for certiorari filed by then DECS Secretary Ricardo T. Gloria for lack of merit, as well as its Resolution dated 13 January 1998 denying reconsideration thereof.

On 26 July 1994 former DECS Secretary Ricardo T. Gloria filed a complaint against respondent Maria Luisa C. Moral, then Chief Librarian, Catalog Division, of the National Library for dishonesty, grave misconduct and conduct prejudicial to the best interest of the service. The complaint charged respondent Moral with the pilferage of some historical documents from the vaults of the Filipiniana and Asian Division (FAD) of the National Library which were under her control and supervision as Division Chief and keeping in her possession, without legal authority and justification, some forty-one (41) items of historical documents which were missing from the FAD vaults of the National Library.

The DECS Investigating Committee conducted several hearings on the complaint. Atty. Jose M. Diaz, Special Prosecutor from the Department of Justice, represented the DECS Secretary in the administrative case while respondent was represented by her own private counsel. On 25 September 1996 Secretary Gloria issued a resolution finding respondent "guilty of the administrative offenses of dishonesty, grave misconduct and conduct prejudicial to the best interest of the service, for the commission of pilferage of historical documents of the national library, to the prejudice of the national library in particular, and the country in general." She was ordered dismissed from the government service with prejudice to reinstatement and forfeiture of all her retirement benefits and other remunerations.

On 30 September 1996 respondent received a copy of the resolution. Thereafter, or on 1 October 1996, she received another resolution correcting the typographical errors found on the first resolution. Respondent did not appeal the judgment.

On 2 October 1996 respondent filed a *Petition for the Production of the DECS Investigation Committee Report* purportedly to "guide [her] on whatever action would be most appropriate to take under the circumstances."^[2] Her petition was, however, denied.

Unfazed, she filed a *Reiteration for DECS Committee Report and DECS Resolution dated September 25, 1996*, which Secretary Gloria similarly denied in his Order of 23 October 1996. Respondent moved for reconsideration but the motion was merely "noted" in view of the warning in the 23 October 1996 Order that the denial of the request for the production of the Investigation Committee Report was final.^[3] As earlier stated, respondent did not appeal the Resolution dated 30 September 1996 dismissing her from the service. Instead, she instituted an action for mandamus and injunction before the regular courts against Secretary Gloria praying that she be furnished a copy of the DECS Investigation Committee Report and that the DECS Secretary be enjoined from enforcing the order of dismissal until she received a copy of the said report.^[4]

Secretary Gloria moved to dismiss the mandamus case principally for lack of cause of action, but the trial court denied his motion. Thus, he elevated the case to the Court of Appeals on certiorari imputing grave abuse of discretion to the trial court. In its assailed Decision of 24 November 1997 the appellate court sustained the trial court and dismissed Secretary Gloria's petition for lack of merit holding that -

FIRST. Petitioner Gloria acted prematurely, not having filed any motion for reconsideration of the assailed order with the respondent judge before filing the instant petition to this Court. This constitutes a procedural infirmity x x x x SECOND. Even if the aforesaid procedural defect were to be disregarded, the petition at hand, nevertheless, must fail. The denial of the motion to dismiss is an option available to the respondent judge. Such order is interlocutory and thus not appealable. The proper recourse of the aggrieved party is to file an answer and interpose, as defenses, the objection(s) raised by him in said motion to dismiss, then proceed with the trial and, in case of adverse decision, to elevate the entire case on appeal in due course.

His motion for reconsideration having been denied by the Court of Appeals on 13 January 1998, Secretary Gloria filed the instant petition for review.

Meanwhile, Secretary Gloria was replaced by Secretary Erlinda C. Pefianco who was thereafter substituted in the case for Secretary Gloria.

The issues before us are: whether the Court of Appeals erred in dismissing the petition for certiorari for failure of petitioner to file a motion for reconsideration of the order denying the motion to dismiss, and in holding that the trial court did not commit grave abuse of discretion in denying the motion to dismiss.

Petitioner contends that there is no need to file a motion for reconsideration as the trial court's order denying the motion to dismiss is a patent nullity, and a motion for reconsideration would practically be a useless ceremony as the trial court virtually decided the case, and that there is no law requiring the DECS to furnish respondent with a copy of the Report of the DECS Investigation Committee so that the petition for mandamus has no leg to stand on hence should have been dismissed for lack of cause of action.

Excepting thereto respondent argues that the denial of the motion to dismiss is interlocutory in nature as it did not dispose of the case on the merits, and petitioner still has a residual remedy, i.e., to file an answer, thus her substantive rights have

not been violated as she contends; that respondent is clearly entitled to the remedy of mandamus to protect her rights; and, that petitioner has not shown any law, DECS order or regulation prohibiting the release of the petitioned documents for reasons of confidentiality or national security.

We grant the petition. Section 3, Rule 16, of the 1997 *Rules of Civil Procedure* mandatorily requires that the resolution on a motion to dismiss should clearly and distinctly state the reasons therefor -

After hearing, the court may dismiss the action or claim, deny the motion or order the amendment of the pleading.

The court shall not defer the resolution of the motion for the reason that the ground relied upon is not indubitable.

In every case, the resolution shall state clearly and distinctly the reasons therefor (underscoring supplied).

Clearly, the above rule proscribes the common practice of perfunctorily denying motions to dismiss "for lack of merit." Such cavalier disposition often creates difficulty and misunderstanding on the part of the aggrieved party in taking recourse therefrom and likewise on the higher court called upon to resolve the issue, usually on certiorari.

The challenged Order of the trial court dated 23 April 1997 falls short of the requirements prescribed in Rule 16. The Order merely discussed the general concept of mandamus and the trial court's jurisdiction over the rulings and actions of administrative agencies without stating the basis why petitioner's motion to dismiss was being denied. We are reproducing hereunder for reference the assailed Order -

This treats of the Motion to Dismiss filed by respondent Gloria on 14 March 1997 to which petitioner filed their (sic) opposition on April 8, 1997.

Respondent premised his motion on the following grounds: (a) Mandamus does not lie to compel respondent DECS Secretary to release the Report of the DECS Investigating Committee because the Petition does not state a cause of action; (b) The DECS Resolution dismissing petitioner is legal and valid, and therefore, the writ of preliminary injunction cannot be granted to enjoin its execution; while petitioner alleged among others that she has no plain, speedy and adequate remedy in the ordinary course of law.

Mandamus is employed to compel the performance, when refused, of a ministerial duty, this being its main objective. "Purely ministerial" are acts to be performed in a given state of facts, in a prescribed manner in obedience to the mandate of legal authority without regard to the exercise of his own judgment upon the propriety or impropriety of the act done. While the discretion of a Constitutional Commission cannot be controlled by mandamus x x x x the court can decide whether the duty is discretionary or ministerial x x x x

Generally, courts have no supervising power over the proceedings and