Haystacks

Administrative Law

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Table of Contents

This collection contains fourteen (14) cases
summarized in this format by
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during the First Semester, school year 2003-2004
in the Administrative Law class
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[1]
Ang Tibay v. CIR [GR 46496, 27 February 1940]
En Banc, Laurel (p): 6 concur.

Facts: *<Incomplete story except facts provided that 89 laborers were laid off due to shortages of leather materials; that Toribio Teodoro allegedly dominates the National Workers' Brotherhood of Ang Tibay and was biased against he National Labor Union.>*

Ang Tibay, has filed an opposition both to the motion for reconsideration of the CIR and to the motion for new trial of the National Labor Union.

The Supreme Court found it not necessary to pass upon the motion for reconsideration of the Solicitor-General, as it found no substantial evidence to indicate that the exclusion of the 89 laborers here was due to their union affiliation or activity. The Court granted the motion for a new trial and the entire record of this case shall be remanded to the CIR, with instruction that it reopen the case, receive all such evidence as may be relevant, and otherwise proceed in accordance with the requirements set forth.

1. The Court of Industrial Relations; Departure from rigid concept of separation of powers

The Court of Industrial Relations is a special court whose functions are specifically stated in the law of its creation (CA 103). It is more an administrative board than a part of the integrated judicial system of the nation. It is not intended to be a mere receptive organ of the Government. Unlike a court of justice which is essentially passive, acting only when its jurisdiction is invoked and deciding only cases that are presented to it by the parties litigant, the function of the Court of Industrial Relations, as will appear from perusal of its organic law, is more active, affirmative and dynamic. It not only exercises judicial or quasijudicial functions in the determination of disputes between employers and employees but its functions are far more comprehensive and extensive. It has jurisdiction over the entire Philippines, to consider, investigate, decide, and settle any question, matter controversy or dispute arising between, and/or affecting, employers and employees or laborers, and landlords and tenants or farm-laborers, and regulate the relations between them, subject to, and in accordance with, the provisions of CA 103 (section 1). It shall take cognizance for purposes of prevention, arbitration, decision and settlement, of any industrial or agricultural dispute causing or likely to cause a strike or lockout, arising from differences as regards wageshares or compensation, hours of labor or conditions of tenancy or employment, between employers and employees or laborers and between landlords and tenants or farm-laborers, provided that the number of employees, laborers or tenants or farm-laborers involved exceeds thirty, and such industrial or agricultural dispute is submitted to the Court by the Secretary of Labor or by any or both of the parties to the controversy and certified by the Secretary of Labor as existing and proper to be death with by the Court for the sake of public interest. (Section A, ibid.) It shall, before hearing the dispute and in the course of such hearing, endeavor to reconcile the parties and induce them to settle the dispute by amicable agreement. (Paragraph 2, section 4, ibid.) When directed by the President of the Philippines, it shall investigate and study all pertinent facts related to the industry concerned or to the industries established in a designated locality, with a view to determining the necessity and fairness of fixing and adopting for such industry or locality a minimum wage or share of laborers or tenants, or a maximum "canon" or rental to be paid by the "inquilinos" or tenants or lessees to landowners. (Section 5, ibid.) In fine, it may appeal to voluntary arbitration in the settlement of industrial disputes; may employ mediation or conciliation for that purpose, or recur to the more effective system of official investigation and compulsory arbitration in order to determine specific controversies between labor and capital in industry and in agriculture. There is in reality here a mingling of executive and judicial functions, which is a departure from the rigid doctrine of the separation of governmental powers.

2. The CIR free from rigidity of certain procedure requirements, but not free to ignore or disregard fundamental and essential requirements of due process involving proceedings of

administrative character

The CIR is not narrowly constrained by technical rules of procedure, and the Act requires it to "act according to justice and equity and substantial merits of the case, without regard to technicalities or legal forms and shall not be bound by any technical rules of legal evidence but may inform its mind in such manner as it may deem just and equitable." (Section 20, CA 103.) It shall not be restricted to the specific relief claimed or demands made by the parties to the industrial or agricultural dispute, but may include in the award, order or decision any matter or determination which may be deemed necessary or expedient for the purpose of settling the dispute or of preventing further industrial or agricultural disputes. (Section 13) And in the light of this legislative policy, appeals to this Court have been especially regulated by the rules recently promulgated by this Court to carry into effect the avowed legislative purpose. The fact, however, that the CIR may be said to be free from the rigidity of certain procedural requirements does not mean that it can, in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirements of due Process in trials and investigations of an administrative character.

3. Cardinal primary rights respected in administrative proceedings; Guidelines

a. Right to a hearing which includes the right of the party interested or affected to present his own case and submit evidence in support thereof. The liberty and property of the citizen shall be protected by the rudimentary requirements of fair play.

b. The tribunal must consider the evidence presented, after t the party is given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts. The right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration.

c. Wile the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support its decision. A decision with absolutely nothing to support it is a nullity, a place when directly attached. This principle emanates from the more fundamental principle that the genius of constitutional government is contrary to the vesting of unlimited power anywhere. Law is both a grant and a limitation upon power.

d. Not only must there be some evidence to support a finding or conclusion but the evidence must be "substantial." Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."

The statute provides that 'the rules of evidence prevailing in courts of law and equity shall not be controlling.' The obvious purpose of this and similar provisions is to free administrative boards from the compulsion of technical rules so that the mere admission of matter which would be deemed incompetent in judicial proceedings would not invalidate the administrative order. But this assurance of a desirable flexibility in administrative procedure does not go so far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated hearsay or rumor does not constitute substantial evidence.

e. The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected. Only by confining the administrative tribunal to the evidence disclosed to the parties, can the latter be protected in their right to know and meet the case against them. It should not, however, detract from their duty actively to see that the law is enforced, and for that purpose, to use the authorized legal methods of securing evidence and informing itself of facts material and relevant to the controversy. Boards of inquiry may be appointed for the purpose of investigating and determining the facts in any given case, but their report and decision are only advisory. (Section 9, CA 103.) The CIR may refer any industrial or agricultural dispute of any matter under its consideration or advisement

to a local board of inquiry, a provincial fiscal, a justice of the peace or any public official in any part of the Philippines for investigation, report and recommendation, and may delegate to such board or public official such powers and functions as the CIR may deem necessary, but such delegation shall not affect the exercise of the Court itself of any of its powers (Section 10)

f. The CIR or any of its judges, therefore, must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision. It may be that the volume of work is such that it is literally impossible for the titular heads of the CIR personally to decide all controversies coming before them. There is no statutory authority to authorize examiners or other subordinates to render final decision, with right to appeal to board or commission, to solve the difficulty.

g. The CIR should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the vario issues involved, and the reasons for the decisions rendered. The performance of this duty is inseparable from the authority conferred upon it.

4. New trial granted under circumstances

The interest of justice would be better served if the movant is given opportunity to present at the hearing the documents referred to in his motion and such other evidence as may be relevant to the main issue involved. The legislation which created the Court of Industrial Relations and under which it acts is new. The failure to grasp the fundamental issue involved is not entirely attributable to the parties adversely affected by the result.

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[2]

Carino vs. CHR [G.R. No. 96681. December 2, 1991.]

En Banc, Narvasa (CJ): 9 concurring, 1 concurring in result, 1 concurring in separate opinion, 1 dissenting in separate opinion

Facts: On 17 September 1990, a Monday and a class day, some 800 public school teachers, among them members of the Manila Public School Teachers Association (MPSTA) and Alliance of Concerned Teachers (ACT) undertook what they described as “mass concerted actions” to “dramatize and highlight” their plight resulting from the alleged failure of the public authorities to act upon grievances that had time and again been brought to the latter’s attention. According to them they had decided to undertake said “mass concerted actions” after the protest rally staged at the DECS premises on 14 September 1990 without disrupting classes as a last call for the government to negotiate the granting of demands had elicited no response from the Secretary of Education. The “mass actions” consisted in staying away from their classes, converging at the Liwasang Bonifacio, gathering in peaceable assemblies, etc. Through their representatives, the teachers participating in the mass actions were served with an order of the Secretary of Education to return to work in 24 hours or face dismissal, and a memorandum directing the DECS officials concerned to initiate dismissal proceedings against those who did not comply and to hire their replacements. Those directives notwithstanding, the mass actions continued into the week, with more teachers joining in the days that followed. Among those who took part in the “concerted mass actions” were Graciano Budoy, Julieta Babaran, Elsa Ibabao, Helen Lupo, Amparo Gonzales, Luz del Castillo, Elsa Reyes and Apolinario Esber, teachers at the Ramon Magsaysay High School, Manila, who had agreed to support the non-political demands of the MPSTA. For failure to heed the return-to-work order, Budoy, et. al. were administratively charged on the basis of the principal’s report and given 5 days to answer the charges. They were also preventively suspended for 90 days pursuant to Section 41 of PD 807 and temporarily replaced. An investigation committee was consequently formed to hear the charges. In the administrative case (Case DECS 90-082) in which Budoy, et. al. filed separate answers, opted for a formal investigation, and also moved “for suspension of the

administrative proceedings pending resolution by the Supreme Court of their application for issuance of an injunctive writ/temporary restraining order. But when their motion for suspension was denied by Order dated 8 November 1990 of the Investigating Committee, which later also denied their motion for reconsideration orally made at the hearing of 14 November 1990, Budoy, et. al., led by their counsel staged a walkout signifying their intent to boycott the entire proceedings. The case eventually resulted in a Decision of Secretary Cariño dated 17 December 1990, rendered after evaluation of the evidence as well as the answers, affidavits and documents submitted by Budoy et.al., decreeing dismissal from the service of Apolinario Esber and the suspension for 9 months of Babaran, Budoy and del Castillo.

In the meantime, the MPSTA filed a petition for certiorari before the RTC Manila against Cariño, which was dismissed. Later, the MPSTA went to the Supreme Court on certiorari, in an attempt to nullify said dismissal, grounded on the alleged violation of the striking teachers' right to due process and peaceable assembly (GR 95445). The ACT also filed a similar petition before the Supreme Court (GR 95590). Both petitions in the Supreme Court were filed in behalf of the teacher associations, a few named individuals, and "other teacher-members so numerous similarly situated" or "other similarly situated public school teachers too numerous to be impleaded. " In the meantime, too, Budoy, et. al., submitted sworn statements dated 27 September 1990 to the CHR to complain that while they were participating in peaceful mass actions, they suddenly learned of their replacements as teachers, allegedly without notice and consequently for reasons completely unknown to them (CHR Case 90-775).

In connection with their complaints, along with those of other teachers, numbering 42, the CHR scheduled a "dialogue" on 11 October 1990, and sent a subpoena to Secretary Cariño requiring his attendance therein. On the day of the "dialogue," although it said that it was "not certain whether Cariño received the subpoena which was served at his office, the Commission proceeded to hear the case. The CHR thereafter issued an Order enjoining DECS Secretary Carino and Dr. Erlinda Lolarga, superintendent of Manila and the Principal of Ramon Magsaysay High School, Manila, to appear before the CHR (19 October 1990) and to bring with them any and all documents relevant to the allegations to assist the CHR in the matter. Otherwise, the CHR will resolve the complaint on the basis of the teachers' evidence. Through the Office of the Solicitor General, Secretary Cariño sought and was granted leave to file a motion to dismiss the case. His motion to dismiss was submitted on 14 November 1990. Pending determination by the Commission of the motion to dismiss, judgments affecting the "striking teachers" were promulgated, i.e. the dismissal of Esber in 17 December 1990 and the Supreme Court resolution of 6 August 1991 dismissing the petitions in GR 95445 and 95590 without prejudice to any appeals before the CSC. In an Order dated 28 December 1990, the CHR denied Sec. Cariño's motion to dismiss and required him and Superintendent Lolarga to submit their counter-affidavits within 10 days after which the Commission shall proceed to hear and resolve the case on the merits with or without Carino's and Lolarga's counter affidavit. To invalidate and set aside such Order, the Solicitor General, in behalf of Cariño, commenced the action of certiorari and prohibition.

The Supreme Court granted the petition is granted; annulled and set aside the 29 December 1990 Order of the CHR, and prohibited the Commission on Human Rights and the Chairman and Members thereof "to hear and resolve the case (i.e., Striking Teachers HRC Case 90-775) on the merits."

The issue raised in the special civil action of certiorari and prohibition at bar, instituted by the Solicitor General, may be formulated as follows: where the relief sought from the Commission on Human Rights by a party in a case consists of the review and reversal or modification of a decision or order issued by a court of justice or government agency or official exercising quasi-judicial functions, may the Commission take cognizance of the case and grant that relief? Stated otherwise, where a particular subject-matter is placed by law within the jurisdiction of a court or other government agency or official for purposes of trial and adjudgment, may the Commission on Human Rights take cognizance of the same subject-matter for the same purposes of hearing and adjudication?

The facts narrated in the petition are not denied by the respondents and are hence taken as substantially correct for purposes of ruling on the legal questions posed in the present action. These facts, 1 together with others involved in related cases recently resolved by this Court, 2 or otherwise undisputed on the record, are hereunder set forth.

1. Commission on Human Rights does not have adjudicatory powers

The Court declares the Commission on Human Rights to have no power to try and decide, or hear and determine, certain specific type of cases, like alleged human rights violations involving civil or political rights; and that it was not meant by the fundamental law to be another court or quasi-judicial agency in the country, or duplicate much less take over the functions of the latter.

2. Commission on Human Rights; Powers and functions

The Commission was created by the 1987 Constitution as an independent office. Upon its constitution, it succeeded and superseded the Presidential Committee on Human Rights existing at the time of the effectivity of the Constitution. Its powers and functions are the following: (1) Investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights; (2) Adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court; (3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection; (4) Exercise visitorial powers over jails, prisons, or detention facilities; (5) Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights; (6) Recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families; (7) Monitor the Philippine Government's compliance with international treaty obligations on human rights; (8) Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority; (9) Bequest the assistance of any department, bureau, office, or agency in the performance of its functions; (10) Appoint its officers and employees in accordance with law; and (11) Perform such other duties and functions as may be provided by law."

3. CHR only has power to investigate claimed human rights violation involving civil and political rights

The most that may be conceded to the Commission in the way of adjudicative power is that it may investigate, i.e., receive evidence and make findings of fact as regards claimed human rights violations involving civil and political rights. The Constitution clearly and categorically grants to the Commission the power to investigate all forms of human rights violations involving civil and political rights. It can exercise that power on its own initiative or on complaint of any person. It may exercise that power pursuant to such rules of procedure as it may adopt and, in cases of violations of said rules, cite for contempt in accordance with the Rules of Court. In the course of any investigation conducted by it or under its authority, it may grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth. It may also request the assistance of any department, bureau, office, or agency in the performance of its functions, in the conduct of its investigation or in extending such remedy as may be required by its findings.

4. Fact-finding is not adjudication

Fact-finding is not adjudication, and cannot be likened to the judicial function of a court of justice, or even a quasi-judicial agency or official. The function of receiving evidence and ascertaining therefrom the facts of a controversy is not a judicial function, properly speaking. To be considered such, the faculty of receiving evidence and making factual conclusions in a controversy must be accompanied by the authority of applying the law to those factual conclusions to the end that the controversy may be decided or determined authoritatively, finally and definitively, subject to such appeals or modes of review as may be provided by

law. This function, to repeat, the Commission does not have. It cannot try and decide cases (or hear and determine causes) as courts of justice, or even quasijudicial bodies do. To investigate is not to adjudicate or adjudge. Whether in the popular or the technical sense, these terms have well understood and quite distinct meanings.

5. Investigate defined (common), purpose

"Investigate," commonly understood, means to examine, explore, inquire or delve or probe into, research on, study. The dictionary definition of "investigate" is "to observe or study closely: inquire into systematically: "to search or inquire into: . . . to subject to an official probe . . .: to conduct an official inquiry." The purpose of investigation, of course, is to discover, to find out, to learn, obtain information. Nowhere included or intimated is the notion of settling, deciding or resolving a controversy involved in the facts inquired into by application of the law to the facts established by the inquiry.

6. Investigate defined (legal)

The legal meaning of "investigate" is essentially the same: "(t)o follow up step by step by patient inquiry or observation. To trace or track; to search into; to examine and inquire into with care and accuracy; to find out by careful inquisition; examination; the taking of evidence; a legal inquiry;" to inquire; to make an investigation," "investigation" being in turn described as "(a)n administrative function, the exercise of which ordinarily does not require a hearing. . . . an inquiry, judicial or otherwise, for the discovery and collection of facts concerning a certain matter or matters."

7. Adjudicate and adjudge defined (common)

"Adjudicate," commonly or popularly understood, means to adjudge, arbitrate, judge, decide, determine, resolve, rule on, settle. The dictionary defines the term as "to settle finally (the rights and duties of the parties to a court case) on the merits of issues raised: . . . to pass judgment on: settle judicially: . . . act as judge." And "adjudge" means "to decide or rule upon as a judge or with judicial or quasi-judicial powers: . . . to award or grant judicially in a case of controversy . . ."

8. Adjudicate and adjudge defined (legal)

In the legal sense, "adjudicate" means: "To settle in the exercise of judicial authority. To determine finally. Synonymous with adjudge in its strictest sense;" and "adjudge" means: "To pass on judicially, to decide, settle or decree, or to sentence or condemn. . . . Implies a judicial determination of a fact, and the entry of a judgment."

9. Resolution of merits within the jurisdiction of the Secretary of Education, not the CHR

The CHR has no power to "resolve on the merits" the question of (a) whether or not the mass concerted actions engaged in by the teachers constitute a strike and are prohibited or otherwise restricted by law; (b) whether or not the act of carrying on and taking part in those actions, and the failure of the teachers to discontinue those actions and return to their classes despite the order to this effect by the Secretary of Education, constitute infractions of relevant rules and regulations warranting administrative disciplinary sanctions, or are justified by the grievances complained of by them; and (c) what where the particular acts done by each individual teacher and what sanctions, if any, may properly be imposed for said acts or omissions. These are matters undoubtedly and clearly within the original jurisdiction of the Secretary of Education, being within the scope of the disciplinary powers granted to him under the Civil Service Law, and also, within the appellate jurisdiction of the Civil Service Commission.

10. Issues to be resolved by Secretary of Education, Civil Service Commission and eventually by the Supreme Court

Whether or not the conclusions reached by the Secretary of Education in disciplinary cases are correct and are adequately based on substantial evidence; whether or not the proceedings themselves are void or defective in not having accorded the respondents due process; and whether or not the Secretary of Education

had in truth committed "human rights violations involving civil and political rights," are matters which may be passed upon and determined through a motion for reconsideration addressed to the Secretary of Education himself, and in the event of an adverse verdict, may be renewed by the Civil Service Commission and eventually by the Supreme Court. The Commission on Human Rights simply has no place in this scheme of things. It has no business intruding into the jurisdiction and functions of the Education Secretary or the Civil Service Commission. It has no business going over the same ground traversed by the latter and making its own judgment on the questions involved.

11. Recourse of CHR in case it concludes Secretary of Education is in error

If the CHR's investigation should result in conclusions contrary to those reached by Secretary Cariño, it would have no power anyway to reverse the Secretary's conclusions. Reversal thereof can only by done by the Civil Service Commission and lastly by this Court. The only thing the Commission can do, if it concludes that Secretary Cariño was in error, is to refer the matter to the appropriate Government agency or tribunal for assistance; that would be the Civil Service Commission. It cannot arrogate unto itself the appellate jurisdiction of the Civil Service Commission.

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[3]

CSC vs. Lucas [G.R. No. 127838. January 21, 1999.]
En Banc, Pardo (J): 14 concur

Facts: On 26 May 1992, Raquel P. Linatok, an assistant information officer at the Agricultural Information Division, Department of Agriculture, filed with the office of the Secretary, DA, an affidavit-complaint against Jose J. Lucas, a photographer of the same agency, for misconduct (allegedly touching the former's thigh, and throwing her out of the office after she kicked him for touching her). On 8 June 1992, the Board of Personnel Inquiry, DA, issued a summons requiring Lucas to answer the complaint, not to file a motion to dismiss, within 5 days from receipt. On 17 June 1992, Lucas submitted a letter to Jose P. Nitullano, assistant head, BOPI, denying the charges. According to Lucas, he did not touch the Linatok's thigh, that what transpired was that he accidentally brushed Linatok's leg when he reached for his shoes and that the same was merely accidental and he did not intend nor was there malice when his hand got in contact with Linatok's leg. On 31 May 1993, after a formal investigation by the BOPI, DA, the board issued a resolution finding Lucas guilty of simple misconduct and recommending a penalty of suspension for 1 month and 1 day. The Secretary of Agriculture approved the recommendation.

Lucas appealed the decision to the Civil Service Commission (CSC). On 7 July 1994, the CSC issued a resolution finding Lucas guilty of grave misconduct and imposing on him the penalty of dismissal from the service. Lucas moved for reconsideration but the CSC denied the motion. Lucas appealed to the Court of Appeals (CA-GR SP 37137). On 29 October 1996, the Court of Appeals promulgated its decision setting aside the resolution of the CSC and reinstating the resolution of the BOPI, DA. Hence, the petition for review on certiorari before the Supreme Court.

The Supreme Court denied the petition for review on certiorari and affirmed the decision of the Court of Appeals.

1. Existing CSC guideline distinguishing simple and grave misconduct

There is an existing guideline of the CSC distinguishing simple and grave misconduct. Memorandum circular No. 49-89 dated 3 August 1989 (also known as the guidelines in the application of penalties in administrative cases) itself which classifies administrative offenses into three: grave, less grave and light offenses. The charge of grave misconduct falls under the classification of grave offenses while simple misconduct is classified as a less grave offense. The former is punishable by dismissal while the latter is

punishable either by suspension (1 month and 1 day to 6 months), if it is the first offense; or by dismissal, if it is the second. Thus, they should be treated as separate and distinct offenses.

2. Elements of corruption, clear intent to violate law or flagrant disregard of establish rule not found in present case

As held in the case of Landrito vs. Civil Service Commission, in grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule, must be manifest." These are obviously lacking in the present case

3. Due process

A basic requirement of due process is that a person must be duly informed of the charges against him and that a person can not be convicted of a crime with which he was not charged. In the present case, Lucas came to know of the modification of the charge against him only when he received notice of the resolution dismissing him from the service.

4. Administrative proceedings not exempt from fundamental procedural principles

Administrative proceedings are not exempt from basic and fundamental procedural principles, such as the right to due process in investigations and hearings. The right to substantive and procedural due process is applicable in administrative proceedings. Thus, it cannot be maintained that "the formal charge in an administrative case need not be drafted with the precision of an information in a criminal prosecution. It is sufficient that he is apprised of the substance of the charge against him; what is controlling is the allegation of the acts complained of, and not the designation of the offense."

5. Court does not condone act; Act, however, remains to be less grave offense

The Court does not in any way condone Lucas' act. Even in jest, he had no right to touch Linatok's leg. However, under the circumstances, such act is not constitutive of grave misconduct, in the absence of proof that Lucas was maliciously motivated. It is also noted that Lucas has been in the service for 20 years and this is his first offense.

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[4]

Corona vs. United Harbor Pilots Association of the Philippines [G.R. No. 111953. December 12, 1997.]
En Banc, Romero (J): 11 concur, 1 took no part

Facts: The Philippine Ports Authority (PPA) was created on 11 July 1974, by virtue of PD 505. On 23 December 1975, PD 857 was issued revising the PPA's charter. Pursuant to its power of control, regulation, and supervision of pilots and the pilotage profession, the PPA promulgated PPA-AO-03-85 2 on 21 March 1985, which embodied the "Rules and Regulations Governing Pilotage Services, the Conduct of Pilots and Pilotage Fees in Philippine Ports." These rules mandate, inter alia, that aspiring pilots must be holders of pilot licenses and must train as probationary pilots in outports for 3 months and in the Port of Manila for 4 months. It is only after they have achieved satisfactory performance that they are given permanent and regular appointments by the PPA itself to exercise harbor pilotage until they reach the age of 70, unless sooner removed by reason of mental or physical unfitness by the PPA General Manager. Harbor pilots in every harbor district are further required to organize themselves into pilot associations which would make available such equipment as may be required by the PPA for effective pilotage services. In view of this mandate, pilot associations invested in floating, communications, and office equipment. In fact, every new pilot appointed by the PPA automatically becomes a member of a pilot association and is required to pay a proportionate equivalent equity or capital before being allowed to assume his duties, as reimbursement to the association concerned of the amount it paid to his predecessor.

Subsequently, then PPA GM Rogelio A. Dayan issued PPA-AO 04-92 7 on 15 July 1992, whose avowed policy was to "instill effective discipline and thereby afford better protection to the port users through the improvement of pilotage services." This was implemented by providing therein that "all existing regular appointments which have been previously issued either by the Bureau of Customs or the PPA shall remain valid up to 31 December 1992 only" and that "all appointments to harbor pilot positions in all pilotage districts shall, henceforth, be only for a term of 1 year from date of effectivity subject to yearly renewal or cancellation by the Authority after conduct of a rigid evaluation of performance." On 12 August 1992, the United Harbor Pilots Association and the Manila Pilots Association, through Capt. Alberto C. Compas, questioned PPA-AO 04-92 before the DOTC, but they were informed by then DOTC Secretary Jesus B. Garcia that "the matter of reviewing, recalling or annulling PPA's administrative issuances lies exclusively with its Board of Directors as its governing body." Meanwhile, on 31 August 1992, the PPA issued Memorandum Order 08-92 8 which laid down the criteria or factors to be considered in the reappointment of harbor pilots viz.: (1) Qualifying Factors: safety record and physical/mental medical exam report and, (2) Criteria for Evaluation: promptness in servicing vessels, compliance with PPA Pilotage Guidelines, number of years as a harbor pilot, average GRT of vessels serviced as pilot, awards/commendations as harbor pilot, and age. The Associations reiterated their request for the suspension of the implementation of PPA-AO 04-92, but Secretary Garcia insisted on his position that the matter was within the jurisdiction of the Board of Directors of the PPA. Compas appealed the ruling to the Office of the President (OP), reiterating his arguments before the DOTC. On 23 December 1992, the OP issued an order directing the PPA to hold in abeyance the implementation of PPA-AO 04-92. In its answer, the PPA countered that said administrative order was issued in the exercise of its administrative control and supervision over harbor pilots, and it, along with its implementing guidelines, was intended to restore order in the ports and to improve the quality of port services. On 17 March 1993, the OP, through then Assistant Executive Secretary for Legal Affairs Renato C. Corona, dismissed the appeal/petition and lifted the restraining order issued earlier. He concluded that PPA-AO 04-92 applied to all harbor pilots and, for all intents and purposes, was not the act of Dayan, but of the PPA, which was merely implementing Section.6 of PD No .857, mandating it "to control, regulate and supervise pilotage and conduct of pilots in any port district."

Consequently, the Associations filed a petition for certiorari, prohibition and injunction with prayer for the issuance of a temporary restraining order and damages, before Branch 6 of the RTC Manila (Civil Case 93-65673). On 6 September 1993, the trial court rendered judgment holding that the PPA, DOTC, and OP have acted in excess of jurisdiction and with grave abuse of discretion and in a capricious, whimsical and arbitrary manner in promulgating PPA Administrative Order 04-92 including all its implementing Memoranda, Circulars and Orders, declaring that PPA Administrative Order 04-92 and its implementing Circulars and Orders are null and void. From this decision, the PPA, DOTC and OP elevated their case to the Supreme Court on certiorari.

The Supreme Court dismissed the petition, and affirmed the assailed decision of the court a quo dated 6 September 1993, without pronouncement as to costs.

1. Pilotage a profession, a property right; Withdrawal or alteration of right requires due process

The Bureau of Customs, the precursor of the PPA, recognized pilotage as a profession and, therefore, a property right under Callanta v. Carnation Philippines, Inc. Thus, abbreviating the term within which that privilege may be exercised would be an interference with the property rights of the harbor pilots. Consequently, any "withdrawal or alteration" of such property right must be strictly made in accordance with the constitutional mandate of due process of law. This was apparently not followed by the PPA when it did not conduct public hearings prior to the issuance of PPA-AO 04-92; the Associations allegedly learned about it only after its publication in the newspapers. Indeed, PPA-AO 04-92 was issued in stark disregard of the pilots' rights against deprivation of property without due process of law.

2. Due process clause of the Constitution; Conditions that concur to fall within aegis of provision

Section 1 of the Bill of Rights lays down what is known as the "due process clause" of the Constitution, viz.: "No person shall be deprived of life, liberty, or property without due process of law, . . ." In order to fall within the aegis of this provision, two conditions must concur, namely, that there is a deprivation and that such deprivation is done without proper observance of due process.

3. Procedural due process

When one speaks of due process of law, however, a distinction must be made between matters of procedure and matters of substance. In essence, procedural due process "refers to the method or manner by which the law is enforced," while substantive due process "requires that the law itself, not merely the procedures by which the law would be enforced, is fair, reasonable, and just."

4. Essence of due process of law; Lumiqued v. Exevea

As long as a party was given the opportunity to defend his interests in due course, he cannot be said to have been denied due process of law, for this opportunity to be heard is the very essence of due process. Moreover, this constitutional mandate is deemed satisfied if a person is granted an opportunity to seek reconsideration of the action or ruling complained of (Lumiqued v. Hon. Exevea). In the present case, the Associations questioned PPA-AO 04-92 no less than 4 times before the matter was finally elevated to the Supreme Court.

5. Coast Guard represented in the PPA; No consultation required of Coast Guard as there is no naval defense involved

The MARINA, which took over the licensing function of the Philippine Coast Guard (issuing the licenses of pilots after administering the pilots' examinations), was duly represented in the Board of Directors of the PPA. There being no matters of naval defense involved in the issuance of the administrative order, the Philippine Coast Guard need not be consulted.

6. Notice and hearing not required in agency's performance of executive or legislative functions

The fact that the pilots themselves were not consulted in any way taint the validity of the administrative order. As a general rule, notice and hearing, as the fundamental requirements of procedural due process, are essential only when an administrative body exercises its quasi-judicial function. In the performance of its executive or legislative functions, such as issuing rules and regulations, an administrative body need not comply with the requirements of notice and hearing.

7. Licensure and license defined

Licensure is "the granting of license especially to practice a profession." It is also "the system of granting licenses (as for professional practice) in accordance with established standards." A license is a right or permission granted by some competent authority to carry on a business or do an act which, without such license, would be illegal.

8. Pilotage as profession practiced only by duly licensed individuals; Vested right

Pilotage, just like other professions, may be practiced only by duly licensed individuals. Before harbor pilots can earn a license to practice their profession, they literally have to pass through the proverbial eye of a needle by taking, not one but five examinations, each followed by actual training and practice. The five government professional examinations, namely, (1) For Third Mate and after which he must work, train and practice on board a vessel for at least a year; (2) For Second Mate and after which he must work, train and practice for at least a year; (3) For chief Mate and after which he must work, train and practice for at least a year; (4) For a Master Mariner and after which he must work as Captain of vessels for at least 2 years to qualify for an examination to be a pilot; and finally, of course, that given for pilots." Their license is granted in the form of an appointment which allows them to engage in pilotage until they retire at the age 70 years. This is a vested right.

9. PPA-AO 04-92 unduly restrict right of pilots to enjoy their profession

Under the terms of PPA-AO 04-92, it is readily apparent that PPA-AO 04-92 unduly restricts the right of harbor pilots to enjoy their profession before their compulsory retirement. Under the new issuance, they have to contend with an annual cancellation of their license which can be temporary or permanent depending on the outcome of their performance evaluation. Veteran pilots and neophytes alike are suddenly confronted with one-year terms which ipso facto expire at the end of that period. Renewal of their license is now dependent on a "rigid evaluation of performance" which is conducted only after the license has already been cancelled. Hence, the use of the term "renewal " It is this pre-evaluation cancellation which primarily makes PPA-AO 04-92 unreasonable and constitutionally infirm. In a real sense, it is a deprivation of property without due process of law.

10. PPA-AO 04-92 a surplusage, an unnecessary enactment; must be struck down

PPA-AO 04-92 and PPA-MO 08-92 are already covered by PPA-AO 03-85, which is still operational. PPA-AO 04-92 is a "surplusage" and, therefore, an unnecessary enactment. PPA-AO 03-85 is a comprehensive order setting forth the "Rules and Regulations Governing Pilotage Services, the Conduct of Pilots and Pilotage Fees in Philippine Ports." It provides, inter alia, for the qualification, appointment, performance evaluation, disciplining and removal of harbor pilots — matters which are duplicated in PPA-AO 04-92 and its implementing memorandum order. Since it adds nothing new or substantial, PPA-AO 04-92 must be struck down.

11. PPA GM Dayan presumed to have acted in accordance with law

The Associations' insinuation that then PPA GM Dayan was responsible for the issuance of the questioned administrative order may have some factual basis; after all, power and authority were vested in his office to propose rules and regulations. The trial court's finding of animosity between him and the former might likewise have a grain of truth. Yet the number of cases filed in court between Associatons and Dayan cannot certainly be considered the primordial reason for the issuance of PPA-AO 04-92. In the absence of proof to the contrary, Dayan should be presumed to have acted in accordance with law and the best of professional motives. In any event, his actions are certainly always subject to scrutiny
by higher administrative authorities.

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[5]

Cruz vs. Youngberg [GR 34674. 26 October 1931.]
En Banc, Ostrand (J): 8 concur

Facts: Mauricio Cruz brought a petition for the issuance of a writ of mandatory injunction before the CFI Manila against the Director of the Bureau of Animal Industry, Stanton Youngberg, requiring him to issue a permit for the landing of 10 large cattle imported by him from Australia and for the slaughter thereof. Cruz attacked the constitutionality of Act 3155, which prohibits the importation of cattle from foreign countries into the Philippine Islands. The Director demurred to the petition on the ground that it did not state facts sufficient to constitute a cause of action. The demurrer was based on two reasons, namely, (1) that if Act 3155 were declared unconstitutional and void, Cruz would not be entitled to the relief demanded because Act 3052 would automatically become effective and would prohibit the Director from giving the permit prayed for; and (2) that Act 3155 was constitutional and, therefore, valid.
The court sustained the demurrer and the complaint was dismissed by reason of the failure of Cruz to file another complaint. From that order of dismissal, Cruz appealed to the Supreme Court.

The Supreme Court affirmed the decision appealed from; with the costs against Cruz.

1. Nullity of Act 3052 would make it impossible for Director to grant permit for the importation of

cattle

If Act 3155 is declared unconstitutional, still Cruz can not be allowed to import cattle from Australia for the reason that, while Act 3155 were declared unconstitutional, Act 3052 would automatically become effective. Cruz does not present any allegation in regard to Act 3052 to show its nullity or unconstitutionality though it appears clearly that in the absence of Act 3155 the former act would make it impossible for the Director of the Bureau of Animal Industry to grant Cruz a permit for the importation of the cattle without the approval of the head of the corresponding department.

2. Unconstitutional statute can have no effect to repeal former laws

An unconstitutional statute can have no effect to repeal former laws or parts of laws by implication, since, being void, it is not inconsistent with such former laws.

3. Court does not pass upon constitutionality of statutes unless it is necessary

The Court will not pass upon the constitutionality of statutes unless it is necessary to do so (McGirr vs. Aldanese and Trinidad, 43 Phil., 259). In the present case, it is not necessary to pass upon the validity of the statute because even if it were declared unconstitutional, the petitioner would not be entitled to relief inasmuch as Act 3052 is not in issue.

4. Provisions of Acts 3052 and 3155 entirely; Promotion of industries affecting the public welfare are objects within scope of police power; Court not to determine if measure is wise or best

Aside from the provisions of Act 3052, Act 3155 is entirely valid. The Legislature passed Act 3155 to protect the cattle industry of the country and to prevent the introduction of cattle diseases through the importation of foreign cattle. The promotion of industries affecting the public welfare and the development of the resources of the country are objects within the scope of the police power. Act 3155 was promulgated as there was reasonable necessity therefore when it was enacted and it cannot be said that the Legislature exceeded its power in passing the Act. That being so, it is not for this court to avoid or vacate the Act upon constitutional grounds nor will it assume to determine whether the measures are wise or the best that might have been adopted.

5. Distinction between delegation of power to make law and conferring an authority or discretion as to execution

The true distinction is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring an authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made (Wilmington and Zanesville Railroad Co. vs. Commissioners of Clinton County). In the present case, there is no unlawful delegation of legislative power.

6. Act 3155 is a complete statute; does not amend but merely supplemental to the Tariff Law

Act 3155 is a complete statute in itself. It does not make any reference to the Tariff Law. It does not permit the importation of articles, whose importation is prohibited by the Tariff Law. It is not a tariff measure but a quarantine measure, a statute adopted under the police power of the Philippine Government. It is at most a ‘supplement’ or an ‘addition’ to the Tariff Law. (See MacLeary vs. Babcock, 82 N. E., 453, 455; 169 Ind., 228 for distinction between ‘supplemental’ and ‘amendatory’ and O’Pry vs. U. S., 249 U. S., 323; 63 Law. ed., 626, for distinction between ‘addition’ and ‘amendment.’)”

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[6]

Gonzales vs. LBP [G.R. No. 76759. March 22, 1990.]
Third Division, Fernando (J) : 4 concurring

Facts: On the strength of a Deed of Assignment executed on 8 August 1981 by Ramos Plantation Company Inc. through its president, Antonio Vic Zulueta, assigning its rights under Land Transfer Claim 82-757 unto Ramon A. Gonzales. Gonzales filed an action before the RTC Manila, Branch 51 (Civil Case 84-24461) to compel Land Bank of the Philippines to issue Land Bank Bonds for the amount of P400,000.00 in Gonzales' name of instead of in the name of the corporation as the original and registered owner of the property covered by TCT T-28755 situated in La Suerte, Malang, North Cotabato with a total area of 251.4300 hectares, which had been brought under the land transfer program of the government. Corporation was declared in default for failure to file its answer within the reglementary period while the LBP filed an answer alleging that the complaint states no cause of action since there is no privity of contract between Gonzales and itself and that it deals only with the landowner whose land was subjected to operation land transfer of the government under PD 27 in order to save time and effort in ascertaining the identities of additional claimants. On 15 October 1985, the lower court found Gonzales entitled to the issuance of the Land Bank bonds and thus ordered the LBP to issue to his name P400,000 P400,000.00 worth of land bank bonds deducted from the P509,000 LBP bonds payable to the corporation under claim 82-757 with the directive to the landowner –corporation to comply with the 6 requirements listed in paragraph 1 of the Supplemental Stipulation of Facts dated 10 September 1985 (parties submitted the first Stipulation of Facts 29 July 1985).

LBP filed an appeal before Court of Appeals resulting in the reversal of the trial court's decision on 2 December 1986 and the dismissal of the complaint filed therein on the ground that even if there was compliance with the remaining 6 requirements by the corporation still, the Land Bank bonds will have to be issued in the name of the said corporation and not to Gonzales. It is only thereafter that the corporation may indorse the same to Gonzales. Hence, the petition for review on certiorari.

The Supreme Court modified the decision of the appellate court, by reinstating the directive to Ramos Plantation Company, Inc. contained in the lower court's decision; and ordered the corporation to comply within 30 days from notice with the 6 requirements listed in paragraph 1 of the Supplemental Stipulation of Facts dated 10 September 1985, and as soon as the bonds are released in its name, to immediately endorse the same to Gonzales as assignee thereof.

1. Jurisdiction: Existence of stipulation of facts does not mean parties agreed on all facts; Remedy of appeal to the Court of Appeals proper

The existence of a stipulation of facts between the parties does not automatically mean that the parties agreed on all the facts considering that stipulations may be total or partial. In the present case instance, it was merely partial. A perusal of the Stipulation and Supplemental Stipulation of Facts dated 29 July 1985 and 10 September 1985, respectively, readily reveals that the same do not contain a complete or sufficient picture of the circumstances among the parties and that certain vital matters are left out in said stipulations, i.e., the significant policy of the LBP to issue its bonds directly and only in the name of the landowners; and the fact that there are different stages in the release of payments under the operation land transfer program with each stage having different requirements that have to be complied with by the landowner in order to be entitled to payment under a land transfer claim. In view of these omissions in the Stipulations, the remedy of appeal before the appellate court resorted to by the bank is proper because it involved not only pure questions of law but mixed questions of law and fact.

2. Resolution 75-68 governs issuance of Land Bank Bonds to assignees; LBP issues bonds in name of assignor-landowner

The bank, in denying the issuance of the bond in the name of the assignee, was guided by Resolution 75-68 entitled "Proper Parties to Receive Land Transfer Payment" promulgated purposely to govern, among others, the issuance of Land Bank Bonds to assignees by virtue of Deeds of Assignment. Thereunder the LBP can only issue bonds in the name of the assignor-landowner. It is only after the issuance of bonds in the landowner's name that he shall be required to make the necessary indorsement of the bonds to his assignee. This is in consonance with the Land Bank's policy to deal primarily with the landowners in order to save time

and effort in ascertaining the identities of claimants.

3. Assignment of Land Transfer Claim subject to the rules and restrictions imposed by LBP

Gonzales relied on the provisions of Article 1311 of the Civil Code, i.e. that by virtue of said deed, he stepped into the shoes of his assignor and acquired all the rights of the latter. Gonzales indeed stepped into the shoes of his assignor, but he overlooked the fact that when the corporation assigned its rights to him under Land Transfer Claim 82-757, the same was subject to the rules and restrictions imposed by LBP on the matter of assignment of rights.

4. Rules and regulation on the issuance of Bonds, based on Section 76 of RA 3844, as amended by PD 251

In the promulgation of said rules and regulations, the LBP relied on the provisions of Section 76, RA 3844 as amended by PD 251, which specifically provides that "the Board of Directors shall have the power to prescribe rules and regulations for the issuance, reissuance, servicing, placement and redemption of the bonds herein authorized to be issued as well as the registration of such bonds at the request of the holders thereof."

5. Assignment does not erase liens or restrictions burdening the right assigned

The act of assignment could not operate to erase liens or restrictions burdening the right assigned. The assignee cannot, after all, acquire a greater right than that pertaining to the assignor. In the present case, when the corporation assigned its rights, title and interest in Land Transfer Claim 82-757 for the amount of P400,000.00 in favor of Gonzales, the latter acquired the same subject to the restrictions on assignment of rights embodied in Resolution 75-68 dated 25 February 1975 passed by the Board of respondent LBP.

6. Pertinent provision of Resolution 85-68

In Assignment of Rights entered into by landowners vesting upon the Assignee the right to receive full or partial payment from the Land Bank pursuant to land transfer, the same, if found valid in form and substance, shall be recognized by the Land Bank. Whenever practicable, Land Bank bonds issued therefor must be made payable to the Assignor-Landowner who shall be required to make the necessary indorsement of said bonds to the Assignee. In case the cash portion is the one assigned, the check in payment thereof shall be issued to the original landowner who shall be required to make the indorsement to the Assignee. Thus, for record purposes, it will appear that payment was directly to the landowner concerned and who, by reason of the Assignment, has caused the necessary indorsement of the bonds and/or check, as the case may be, to the Assignee."

7. Administrative regulations and policies have force of law and entitled to great respect; their legality is presumed

It is an elementary rule in administrative law that administrative regulations and policies enacted by administrative bodies to interpret the law which they are entrusted to enforce have the force of law and entitled to great respect. They have in their favor a presumption of legality.

8. Corporation to comply with requirements imposed by LBP

The corporation should comply with all the requirements imposed by LBP to effect the release of payments under land transfer claims, because of the restriction that the bonds will only be released in the name of the landowner-assignor corporation which may thereafter indorse the same to the assignee.

9. Decision of trial court, in fact, is final and executory

In fact, in the decision of the trial court, the corporation was directed to comply with the 6 requirements listed in paragraph 1 of the Supplemental Stipulation of Facts dated 10 September 1985. Since no appeal was taken by the corporation from said decision, said directive has become final and executory.

10. The necessity to modify the decision of the appellate court

The decision of the appellate court, however, dismissing Gonzales' complaint had the effect of reversing said directive, thereby leaving Gonzales without legal authority to compel the corporation to comply with the requirements of the LBP for the release of the bonds and thereafter to endorse the same to Gonzales as assignee thereof. The decision of the appellate court should therefore be modified accordingly.

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[7]

Guevara vs. Comelec [G.R. No. L-12596. July 31, 1958.]
En Banc, Bautista-Angelo (J): 7 concurring

Facts: The Comelec, on 4 May 1957, after proper negotiations, awarded to the National Shipyards & Steel Corporation (NASSCO), the Acme Steel Mfg. Co., Inc. (ACME), and the Asiatic Steel Mfg. Co., Inc. (ASIATIC), the contracts to manufacture and supply the Commission 12,000, 11,000 and 11,000 ballot boxes at P17.64, P14.00 and P17.00 each, respectively. On 8 May 1957, both the NASSCO and the ASIATIC signed with the Comelec the corresponding contracts thereon. On 13 May 1957, the Comelec cancelled the award to the ACME for failure of the latter to sign the contract within the designated time and awarded to the NASSCO and the ASIATIC, one-half each, the 11,000 ballot boxes originally alloted to the ACME. The corresponding contracts thereon were signed on 16 May 1957. A series of petitions were filed by ACME for the reconsideration of the resolution of the Commission of 13 May 1957. The first was filed on 14 May 1957 which, after hearing, was denied by the Comelec in its resolution of 16 May 1957. The second was filed on 16 May 1957 and was denied on 17 May 1957. The third was filed on 20 May 1957, and because of the seriousness of the grounds alleged therein for the annulment of its previous resolutions, the Comelec resolved to conduct a formal investigation on the matter ordering the NASSCO and the ASIATIC to file their respective answers. Thereafter, after these corporations had filed their answers, the Comelec held a formal hearing thereon on 24 May 1957. On 28 May 1957, the ACME filed a memorandum on the points adduced during the hearing, and on 4 June 1957, the Commission issued its resolution denying the third motion for reconsideration. The article signed by Jose Guevara was published in the 2 June 1957 issue of the Sunday Times, a newspaper of nationwide circulation.

Guevara was ordered by the Comelec to show cause why he should not be punished for contempt for having published in the Sunday Times issue of 2 June 1957 an article entitled "Ballot Boxes Contract Hit", which tended to interfere with and influence the Comelec and its members in the adjudication of a controversy then pending investigation and determination before said body "arising from the third petition for reconsideration of 20 May 1957 and the supplementary petition thereof of 1 June 1957 filed by ACME; and which article likewise tended to degrade, bring into disrepute, and undermine the exclusive constitutional function of the Comelec and its Chairman Domingo Imperial and Member Sixto Brillantes in the administration of all the laws relative to the conduct of elections. Guevar, answering the summons issued to him by the Comelec, appeared and filed a motion to quash. The Comelec, after hearing, denied the motion to quash but granted Guevara a period of 15 days within which to elevate the matter to the Supreme Court in view of the issue raised which assails the jurisdiction of the Commission to investigate and punish Guevara for contempt in connection with the alleged publication. Hence the petition for prohibition with preliminary injunction.

The Supreme Court granted the petition, and enjoined the Comelec from proceeding with the contempt case set forth in its resolution of 20 June 1957, without pronouncement as to costs. The preliminary injunction issued by the Supreme Court was made permanent.

1. Commission on Elections; Nature

The Commission on Elections is an independent administrative body which was established by our Constitution to take charge of the enforcement of all laws relative to the conduct of elections and devise means and methods that will insure the accomplishment of free, orderly, and honest elections (Sumulong vs.

Commission on Elections, 73 Phil., 288; Nacionalista Party vs. The Solicitor General, 85 Phil., 101; 47 Off. Gaz. 2356).

2. Commission on Elections; Powers defined in the Constitution

The Comelec's powers are defined in the Constitution. It provides that it "shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections and shall exercise all other functions which may be conferred upon it by law. It shall decide, save those involving the right to vote, all administrative questions, affecting elections, including the determination of the number and location of polling places, and the appointment of election inspectors and of other election officials" (Section 2, Article X).

3. Commission on Elections; Supplemental powers embodied in Section 5 of the Revised Election Code

The Revised Election Code supplements what other powers may be exercised by said Commission. Among these powers are those embodied in Section 5 of said Code. It provides, "the Commission on Elections or any of the members thereof shall have the power to summon the parties to a controversy pending before it, issue subpoenas and subpoenas duces tecum and otherwise take testimony in any investigation or hearing pending before it, and delegate such power to any officer. Any controversy submitted to the Commission on Elections shall be tried, heard and decided by it within fifteen days counted from the time the corresponding petition giving rise to said controversy is filed. The Commission or any of the members thereof shall have the power to punish contempts provided for in rule sixty-four of the Rules of Court, under the same procedure and with the same penalties provided therein. Any violation of any final and executory decision, order or ruling of the Commission shall constitute contempt of the Commission. Any decision, order or ruling of the Commission on Elections may be reviewed by the Supreme Court by writ of certiorari in accordance with the Rules of Court or with such rules as may be promulgated by the Supreme Court."

4. Comelec's power to enforce election laws and power to try hear and decide election controversies

The Comelec not only has the duty to enforce and administer all laws relative to the conduct of elections but the power to try, hear and decide any controversy that may be submitted to it in connection with the elections. And as an incident of this power, it may also punish for contempt in those cases provided for in Rule 64 of the Rules of Court under the same procedure and with the same penalties provided therein.

5. Quasi-judicial functions of the Comelec; Difficulty in determining demarcation between administrative duty and justiciable function

The Comelec, although it cannot be classified as a court of justice within the meaning of the Constitution (Section 13, Article VIII), for it is merely an independent administrative body (The Nacionalista Party vs. Vera, 85 Phil., 126; 47 Off. Gaz. 2375), may however exercise quasi-judicial functions in so far as controversies that by express provision of the law come under its jurisdiction. As to what questions may come within this category, neither the Constitution nor the Revised Election Code specifies. The former merely provides that it shall come under its jurisdiction, saving those involving the right to vote, all administrative questions affecting elections, including the determination of the number and location of polling places, and the appointment of election inspectors and other election officials, while the latter is silent as to what questions may be brought before it for determination. But it is clear that, to come under its jurisdiction, the questions should be controversial in nature and must refer to the enforcement and administration of all laws relative to the conduct of election. The difficulty lies in drawing the demarcation line between a duty which inherently is administrative in character and a function which is justiciable and which would therefore call for judicial action by the Commission. But this much depends upon the factors that may intervene when a controversy should arise.

6. Jurisprudence: where Comelec has no power

The Comelec has no power to annul an election which might not have been free, orderly and honest for such matter devolves upon other agencies of the Government (Nacionalista Party vs. Commission on Elections, 85 Phil., 148; 47 Off. Gaz. 2851); neither does it have the power to decide the validity or invalidity of votes cast in an election for such devolves upon the courts or the electoral tribunals (Ibid.); it does not also have the power to order a recounting of the votes before the proclamation of election even if there are discrepancies in the election returns for it is a function of our courts of justice (Ramos vs. Commission on Elections, 80 Phil., 722); nor does it have the power to order the correction of a certificate of canvass after a candidate had been proclaimed and assumed office (De Leon vs. Imperial, 94 Phil., 680); and only very recently it was held that the Commission has no power to reject a certificate of candidacy except only when its purpose is to create confusion in the minds of the electors (Abcede vs. Imperial, 103 Phil., 136).

7. Jurisprudence: where Comelec has power

It has been held that the Commission has the power to annul an illegal registry list of voters (Feliciano, et al. vs. Lugay, et al., 93 Phil., 744; 49 Off. Gaz. 3863); to annul an election canvass made by a municipal board of canvassers (Mintu vs. Enage, et al., G. R. No. L-1834); and to investigate and act on the illegality of a canvass of election made by a municipal board of canvassers (Ramos vs. Commission on Elections, 80 Phil., 722).

8. Ministerial duties of the Comelec in connection with the conduct of elections

In the enforcement and administration of all laws relative to the conduct of elections, the first duty of the Commission is to set in motion all the multifarious preparatory processes ranging from the purchase of election supplies, printing of election forms and ballots, appointments of members of the boards of inspectors, establishment of precincts and designation of polling places to the preparation of the registry lists of voters, so as to put in readiness on election day the election machinery in order that the people who are legally qualified to exercise the right of suffrage may be able to cast their votes to express their sovereign will. It is incumbent upon the Commission to see that all these preparatory acts will insure free, orderly and honest elections. All provisions of the Revised Election Code contain regulations relative to these processes preparatory for election day. It is incumbent upon the Commission on Elections to see that all these preparatory acts are carried out freely, honestly and in an orderly manner. It is essential that the Commission or its authorized representatives, in establishing precincts or designating polling places, must act freely, honestly and in an orderly manner. It is also essential that the printing of election forms and the purchase of election supplies and their distribution are done freely, honestly and in an orderly manner. It is further essential that the political parties or their duly authorized representatives who are entitled to be represented in the boards of inspectors must have the freedom to choose the person who will represent them in each precinct throughout the country. It is further essential that once organized, the boards of inspectors shall be given all the opportunity to be able to perform their duties in accordance with law freely, honestly and in an orderly manner, individually and as a whole. In other words, it is the duty of the Commission to see that the boards of inspectors, in all their sessions, are placed in an atmosphere whereby they can fulfill their duties without any pressure, influence and interference from any private person or public official. All these preparatory steps are administrative in nature and all questions arising therefrom are within the exclusive powers of the Commission to resolve. All irregularities, anomalies and misconduct committed by any election official in these preparatory steps are within the exclusive power of the Commission to correct. Any erring official must respond to the Commission for investigation. *(Decision of the Commission on Elections, October 28, 1951, In Re Petition of Angel Genuino vs. Prudente, et al., Case No. 196)* The preparation of the permanent list of votes is completely an administrative matter.

9. Requisitioning and preparation of ballot boxes to be used in election a ministerial duty

Considering that the paramount administrative duty of the Commission is to set in motion all the multifarious preparatory processes ranging from the purchase of election supplies, printing of election forms and ballots, appointments of members of the board of inspectors, establishment of precincts and designation of polling places to the preparation of registry lists of voters, so as to put in readiness on election day the

election machinery, it may also be reasonably said that the requisitioning and preparation of the necessary ballot boxes to be used in the elections is by the same token an imperative ministerial duty which the Commission is bound to perform if the elections are to be held.

10. Comelec has no power to punish for contempt if the Commission is merely discharging ministerial duty

The controversy merely refers to a ministerial duty which the Commission has performed in its administrative capacity in relation to the conduct of elections ordained by the Constitution. In proceeding on this matter, it only discharged a ministerial duty; it did not exercise any judicial function. Such being the case, it could not exercise the power to punish for contempt as postulated in the law, for such power is inherently judicial in nature.

11. Power to punish for contempt inherent in courts

The power to punish for contempt is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of judgments, orders and mandates of courts, and, consequently, in the administration of justice" (Slade Perkins vs. Director of Prisons, 58 Phil., 271; U. S. vs. Loo Hoe, 36 Phil., 867; In Re Sotto, 46 Off. Gaz. 2570; In Re Kelly, 35 Phil., 944). The exercise of this power has always been regarded as a necessary incident and attribute of courts (Slade Perkins vs. Director of Prisons, Ibid.). Its exercise by administrative bodies has been invariably limited to making effective the power to elicit testimony (People vs. Swena, 296 P., 271). And the exercise of that power by an administrative body in furtherance of its administrative function has been held invalid (Langenberg vs. Decker, 31 N.E. 190; In Re Sims 37 P., 135; Roberts vs. Hacney, 58 S.W., 810).

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[8]

Land Bank vs. CA [G.R. No. 118712. October 6, 1995.]
DAR vs. CA [G.R. No. 118745]
Second Division, Francisco (J): 3 concur, 1 on leave

Facts: Pedro L. Yap, the Heirs of Emiliano Santiago, and the Agricultural Management and Development Corporation (AMADCOR) are landowners whose landholdings were acquired by the DAR and subjected to transfer schemes to qualified beneficiaries under the Comprehensive Agrarian Reform Law (CARL, RA 6657). Aggrieved by the alleged lapses of the DAR and the Landbank with respect to the valuation and payment of compensation for their land pursuant to the provisions of RA 6657, the landowners filed with the Supreme Court a Petition for Certiorari and Mandamus with prayer for preliminary mandatory injunction. They questioned the validity of DAR Administrative Order 6, Series of 1992 and DAR Administrative Order 9, Series of 1990, and sought to compel the DAR to expedite the pending summary administrative proceedings to finally determine the just compensation of their properties, and the Landbank to deposit in cash and bonds the amounts respectively "earmarked", "reserved" and "deposited in trust accounts" for the landowners, and to allow them to withdraw the same. Through a Resolution of the Second Division dated 9 February 1994, the Supreme Court referred the petition to the Court of Appeals for proper determination and disposition. The DAR maintained that Administrative Order 9 is a valid exercise of its rule-making power pursuant to Section 49 of RA 6657. Moreover, the DAR maintained that the issuance of the "Certificate of Deposit" by the Landbank was a substantial compliance with Section 16(e) of RA 6657 and the ruling in the case of Association of Small Landowners in the Philippines, Inc., et al. vs. Hon. Secretary of Agrarian Reform, G.R. No. 78742, July 14, 1989 (175 SCRA 343). For its part, Landbank declared that the issuance of the Certificates of Deposits was in consonance with Circulars 29, 29-A and 54 of the Land Registration Authority where the words "reserved/deposited" were also used.

The appellate court promulgated on 20 October 1994, which granted Yap, et. al.'s petition, and declared that

DAR Administrative order 9, Series of 1990 is null and void insofar as it provides for the opening of trust accounts in lieu of deposits in cash or bonds; ordered the Landbank to immediately deposit — not merely 'earmark', 'reserve' or 'deposit in trust' — with an accessible bank designated by the DAR in the names of Yap, the Santiago heirs, and AMADCOR the amounts of P1,455,207.31, P135,482.12, P15,914,127.77 in cash and in government financial instruments — within the parameters of Sec. 18 (1) of RA 6657; ordered the DAR-designated bank to allow Yap, et. al. to withdraw the above-deposited amounts without prejudice to the final determination of just compensation by the proper authorities; and ordered DAR to immediately conduct summary administrative proceedings to determine the just compensation for the lands giving yap, et. al. 15 days from notice within which to submit evidence and to decide the cases within 30 days after they are submitted for decision. LandBank and DAR filed a motion for reconsideration but the court denied the same. Separate petitions for review were filed by the DAR (GR 118745) and Land Bank of the Philippines (GR 118712) following the adverse ruling by the Court of Appeals in CA-GR SP 33465. However, upon motion filed by Yap, et. al., the petitions were ordered consolidated.

The Supreme Court denied the petition for lack of merit and affirmed the appealed decision in toto.

1. Duty of the court to protect the weak and the underprivileged but not to deny justice to the landowner

It has been declared that the duty of the court to protect the weak and the underprivileged should not be carried out to such an extent as deny justice to the landowner whenever truth and justice happen to be on his side.

2. Social Justice is for both the poor and the rich

Social justice — or any justice for that matter — is for the deserving, whether he be a millionaire in his mansion or a pauper in his hovel. It is true that, in case of reasonable doubt, we are called upon to tilt the balance in favor of the poor, to whom the Constitution fittingly extends its sympathy and compassion. But never is it justified to prefer the poor simply because they are poor, or to reject the rich simply because they are rich, for justice must always be served, for poor and rich alike, according to the mandate of the law."

3. Section 16 (e) of RA 6657; Law explicit that deposit in cash or in LBP bonds; Law clear to warrant an expanded construction of the term "deposit"

Section .16(e) of RA 6657 [Procedure for Acquisition of Private Lands] provides that "Upon receipt by the landowner of the corresponding payment or, in case of rejection or no response from the landowner, upon the deposit with an accessible bank designated by the DAR of the compensation in cash or in LBP bonds in accordance with this Act, the DAR shall take immediate possession of the land and shall request the proper Register of Deeds to issue a Transfer Certificate of Title (TCT) in the name of the Republic of the Philippines . . ." It is very explicit therefrom that the deposit must be made only in "cash" or in "LBP bonds". Nowhere does it appear nor can it be inferred that the deposit can be made in any other form. If it were the intention to include a "trust account" among the valid modes of deposit, that should have been made express, or at least, qualifying words ought to have appeared from which it can be fairly deduced that a "trust account" is allowed. In sum, there is no ambiguity in Section 16(e) of RA 6657 to warrant an expanded construction of the term "deposit".

4. Administrative construction not absolute, may be set aside by judiciary if it conflicts with legislative intent; Quasi-legislative power purposed to carry provisions of law into effect; Statute prevails

The conclusive effect of administrative construction is not absolute. Action of an administrative agency may be disturbed or set aside by the judicial department if there is an error of law, a grave abuse of power or lack of jurisdiction or grave abuse of discretion clearly conflicting with either the letter or the spirit of a legislative enactment. In this regard, it must be stressed that the function of promulgating rules and regulations may be legitimately exercised only for the purpose of carrying the provisions of the law into

effect. The power of administrative agencies is thus confined to implementing the law or putting it into effect. Corollary to this is that administrative regulations cannot extend the law and amend a legislative enactment, for settled is the rule that administrative regulations must be in harmony with the provisions of the law. And in case there is a discrepancy between the basic law and an implementing rule or regulation, it is the former that prevails.

5. LRA Circulars cannot be invoked as regulations cannot outweigh the law; Circular 9 null and void

The DAR and the LandBank cannot invoke LRA Circulars 29, 29-A and 54 because these implementing regulations cannot outweigh the clear provision of the law. The Appellate court did not commit any error in striking down Administrative Circular 9 for being null and void.

6. Association of Small Landowners v. Secretary of Agrarian reform did not abandon the rule that title shall pass to the expropriator only upon full payment of just compensation; Ruling merely recognized extraordinary nature of expropriation under RA 6657

Despite the 'revolutionary' character of the expropriation envisioned under RA 6657 which led the Supreme Court, in the case of Association of Small Landowners in the Phil. Inc. vs. Secretary of Agrarian Reform (175 SCRA 343), to conclude that 'payments of the just compensation is not always required to be made fully in money' — even as the Supreme Court admits in the same case 'that the traditional medium for the payment of just compensation is money and no other' — the Supreme Court in said case did not abandon the 'recognized rule . . . that title to the property expropriated shall pass from the owner to the expropriator only upon full payment of the just compensation. Indeed, the ruling in the "Association" case merely recognized the extraordinary nature of the expropriation to be undertaken under RA 6657 thereby allowing a deviation from the traditional mode of payment of compensation and recognized payment other than in cash. It did not, however, dispense with the settled rule that there must be full payment of just compensation before the title to the expropriated property is transferred.

7. Attempt to distinguish deposit of compensation and determination of just compensation unacceptable

The attempt to make a distinction between the deposit of compensation under Section 16(e) of RA 6657 and determination of just compensation under Section 18 is unacceptable. To withhold the right of the landowners to appropriate the amounts already deposited in their behalf as compensation for their properties simply because they rejected the DAR's valuation, and notwithstanding that they have already been deprived of the possession and use of such properties, is an oppressive exercise of eminent domain. The irresistible expropriation of the landowners' properties was painful enough for them. But the DAR rubbed it in all the more by withholding that which rightfully belongs to the landowners in exchange for the taking, under an authority (the "Association" case) that is, however, misplaced. This is misery twice bestowed on the landowners, which the Court must rectify.

8. Court did not distinguish between provisional and final compensation

The Court found it unnecessary to distinguish between provisional compensation under Section 16(e) and final compensation under Section 18 for purposes of exercising the landowners' right to appropriate the same. The immediate effect in both situations is the same, the landowner is deprived of the use and possession of his property for which he should be fairly and immediately compensated.

9. Just compensation, within the context of power of eminent domain

Within the context of the State's inherent power of eminent domain, just compensation means not only the correct determination of the amount to be paid to the owner of the land but also the payment of the land within a reasonable time from its taking. Without prompt payment, compensation cannot be considered 'just' for the property owner is made to suffer the consequence of being immediately deprived of his land while being made to wait for a decade or more before actually receiving the amount necessary to cope with

his loss.

10. Association ruling endeavored to remove legal obstacles in implementing CARP

The promulgation of the "Association" decision endeavored to remove all legal obstacles in the implementation of the Comprehensive Agrarian Reform Program and clear the way for the true freedom of the farmer. But despite this, cases involving its implementation continue to multiply and clog the courts' dockets. Nevertheless, the Court is still optimistic that the goal of totally emancipating the farmers from their bondage will be attained in due time.

11. Rights of landowners equally important in pursuit of emancipation of farmers

It must be stressed that in the pursuit of this objective, vigilance over the rights of the landowners is equally important because social justice cannot be invoked to trample on the rights of property owners, who under the Constitution and laws are also entitled to protection.

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[9]

Masangcay vs. Comelec [GR L-13827. 28 September 1962.]
En Banc, Bautista-Angelo (J): 9 concur, 1 took no part.

Facts: On 24 October 1957, Benjamin Masangcay — then provincial treasurer of Aklan designated to take charge of the receipt and custody of the official ballots, election forms and supplies, as well as of their distribution, among the different municipalities of the province— with several others, was charged before the Comelec with contempt for having opened 3 boxes containing official and sample ballots for the municipalities of the province of Aklan, in violation of the instructions of said Commission embodied in its resolution promulgated on 2 September 1957, and its unnumbered resolution dated 5 March 1957, inasmuch as he opened said boxes not in the presence of the division superintendent of schools of Aklan, the provincial auditor, and the authorized representatives of the Nacionalista Party, the Liberal Party and the Citizens' Party, as required, which are punishable under Section 5 of the Revised Election Code and Rule 64 of the Rules of Court.

Masangcay et.al. complied with the summons issued by the Comelec to appear and show cause why they should not be punished for contempt on the basis of the charge. On 16 December 1957 the Commission rendered its decision finding Masangcay and his co-respondent Molo guilty as charged and sentencing each of them to suffer 3 months imprisonment and pay a fine of P500, with subsidiary imprisonment of 2 months in case of insolvency, to be served in the provincial jail of Aklan. The other respondents were exonerated for lack of evidence.

Masangcay brought the present petition for review raising as main issue the constitutionality of Section 5 of the Revised Election Code which grants the Comelec as well as its members the power to punish acts of contempt against said body under the same procedure and with the same penalties provided for in Rule 64 of the Rules of Court in that the portion of said section which grants to the Commission and members the power to punish for contempt is unconstitutional for it infringes the principle underlying the separation of powers that exists among the three departments of our constitutional form of government.

The Supreme Court reversed the decision appealed from insofar as Masangcay is concerned, as well as the resolution denying his motion for reconsideration, insofar as it concerns him; without pronouncement as to costs.

1. Ruling in Guevara vs. Comelec reiterated; Duty of Comelec

In Guevara vs. Comelec, it was held that under the law and the constitution, the Comelec has not only

the duty to enforce and administer all laws relative to the conduct of elections, but also the power to try, hear and decide any controversy that may be submitted to it in connection with the elections. The Commission, although it cannot be classified as a court of justice within the meaning of the Constitution (Section 30, Article VIII), for it is merely an administrative body, may however exercise quasi-judicial functions insofar as controversies that by express provision of law come under its jurisdiction.

2. Comelec lacks power to impose disciplinary penalty; Power to punish for contempt inherent in courts

The Comelec lacks power to impose the disciplinary penalty meted out to Macungcay in the decision subject of review. When the Commission exercises a ministerial function it cannot exercise the power to punish for contempt because such power is inherently judicial in nature. The power to punish for contempt is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of judgments, orders and mandates of courts, and, consequently, in the administration of justice. The exercise of this power has always been regarded as a necessary incident and attribute of courts. Its exercise by administrative bodies has been invariably limited to making effective the power to elicit testimony. And the exercise of that power by an administrative body in furtherance of its administrative function has been held invalid.

3. Resolution which Commission tries to enforce merely call for administrative or ministerial functions

The resolutions which the Commission tried to enforce and for whose violation the charge for contempt was filed against Masangcay merely call for the exercise of an administrative or ministerial function for they merely concern the procedure to be followed in the distribution of ballots and other election paraphernalia among the different municipalities. The Commission, thus, has exceeded its jurisdiction in punishing him for contempt, and so its decision is null and void.

4. Constitutionality of Section 5 of Revised Election Code not passed upon

Due to conclusion arrived at, the Court deemed it unnecessary to pass on the question of constitutionality with regard to the portion of Section 5 of the Revised Election Code which confers upon the Comelec the power to punish for contempt for acts provided for in Rule 61 of our Rules of Court.

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[10]

Ocampo vs. Ombudsman [G.R. No. 114683. January 18, 2000.]
Second Division, Buena (J): 4 concurring

Facts: On 21 March 1988, K.N. Paudel of the Agricultural Development Bank of Nepal (ADBN) wrote a letter to Niaconsult Inc., a subsidiary of the National Irrigation Administration, requesting a training proposal on small-scale community irrigation development. On 17 November 1988, Jesus C. Ocampo as the training coordinator of the Niaconsult, sent a letter-proposal requested by ADBN. Another letter was sent by Ocampo on 31 January 1989 to Dr. Peiter Roeloffs of ADBN confirming the availability of Niaconsult to conduct the training program and formally requesting advance payment of 30% percent of the training fees in the amount of US $9,600.00 or P204,960.00. Niaconsult conducted the training program for 6 Nepalese Junior Engineers from 6 February to 7 March 1989. ADBN, thru its representative, Deutsche Gesselschaft Technische Zusummenarbeit (GTZ) Gmbh Technical Cooperation of the Federal Republic of Germany paid to Ocampo the agreed training fee in two installments of P61,488.00 and P143,472.00. On 1 April 1991, Niaconsult, through its president, Wilfredo S. Tiongco, wrote a letter to Ocampo demanding the turn-over of the total training fee paid by ADBN which Ocampo personally received. Despite receipt of the letter, Ocampo failed to remit the said amount prompting Niaconsult through its president, Maximino Eclipse, to file an administrative case before the Ombudsman for serious misconduct and/or fraud or willful breach of trust.

Finding enough basis to proceed with the administrative case, the Administrative Adjudication Bureau of the Ombudsman, on 17 February 1992, issued an order requiring Ocampo to file his counter-affidavit within 10 days from receipt with a caveat that failure to file the same would be deemed a waiver of his right to present evidence. Despite notice, Ocampo failed to comply with the said order. A year later, or on 17 March 1993, the Ombudsman issued another order giving Ocampo another chance to file his counter-affidavit and controverting evidence. Again, Ocampo failed. Thus, on 14 April 1993, Eclipse was required to appear before the Ombudsman to present evidence to support its complaint. On 18 November 1993, the Ombudsman (OMB-Adm-O-92-0020) issued the a Resolution recommending that Ocampo discharged from the service, with forfeiture of benefits and special perpetual disqualification to hold office in the government or any government-owned or controlled corporation; without prejudice to any civil action Niaconsult may institute to recover the amount so retained by Niaconsult. On 16 February 1994, Ocampo moved for reconsideration and to re-open the case claiming that he was denied due process. On 28 February 1994, the Ombudsman denied the motion. Hence, the petition for certiorari.

While the case is pending, Ocampo filed a Manifestation on 24 May 1997 stating that the criminal complaint for estafa and falsification filed against him based on the same facts or incidents which gave rise to the administrative case, was dismissed by the RTC on 24 February 997. With the dismissal of the criminal case, Ocampo manifests that the administrative case can no longer stand on its own and therefore should be dismissed.

The Supreme Court denied the petition for lack of merit and affirmed the assailed Resolutions of Ombudsman.

1. Dismissal of the criminal case will not foreclose administrative action; Quantum of evidence required in criminal, civil and administrative cases

The dismissal of the criminal case will not foreclose administrative action filed against Ocampoo or give him a clean bill of health in all respects. The RTC, in dismissing the criminal complaint, was simply saying that the prosecution was unable to prove the guilt of Ocampo beyond reasonable doubt, a condition sine qua non for conviction. The lack or absence of proof beyond reasonable doubt does not mean an absence of any evidence whatsoever for there is another class of evidence which, though insufficient to establish guilt beyond reasonable doubt, is adequate in civil cases; this is preponderance of evidence. Then too, there is the "substantial evidence" rule in administrative proceedings which merely requires such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Thus, considering the difference in the quantum of evidence, as well as the procedure followed and the sanctions imposed in criminal and administrative proceedings, the findings and conclusions in one should not necessarily be binding on the other.

2. Essence of due process; Oral and written arguments; Judicial and Administrative due process

The essence of due process is an opportunity to be heard. One may be heard, not solely by verbal presentation but also, and perhaps even many times more creditably and practicable than oral argument, through pleadings. In administrative proceedings, moreover, technical rules of procedure and evidence are not strictly applied; administrative due process cannot be fully equated to due process in its strict judicial sense.

3. Ocampo amply accorded opportunity to be heard

Ocampo has been amply accorded the opportunity to be heard. He was required to answer the complaint against him. In fact, Ocampo was given considerable length of time to submit his counter-affidavit. It took more than one year from 17 February 1992 before Ocampo was considered to have waived his right to file his counter-affidavit and the formal presentation of the complainant's evidence was set. The 17 March 1993 order was issued to give Ocampo a last chance to present his defense, despite the private Niaconsult's objections. But Ocampo failed to comply with the second order.

4. He who chooses not to avail opportunity to answer charges cannot complain of denial of due process

Ocampo's failure to present evidence is solely of his own making and cannot escape his own remissness by passing the blame on the graft investigator. While the Ombudsman has shown forbearance, Ocampo has not displayed corresponding vigilance. He therefore cannot validly claim that his right to due process was violated. A party who chooses not to avail of the opportunity to answer the charges cannot complain of a denial of due process.

5. Waiver; Ombudsman need not issue another order notifying accused that he has waived right

The orders of the Ombudsman requiring Ocampo to submit his counter-affidavit and which was admittedly received by the latter explicitly contain a warning that if no counter-affidavit was filed within the given period, a waiver would be considered and the administrative proceedings shall continue according to the rules. Thus, the Ombudsman need not issue another order notifying Ocampo that he has waived his right to file a counter-affidavit. In the same way, Ocampo need not be notified of the ex-parte hearing for the reception of NIAConsult's evidence. As such, he could not have been expected to appear at the ex-parte hearing.

6. Ocampo indeed dishonest and untrustworthy based on records of case

The record of the case indisputably shows that Ocampo is guilty of dishonesty and conduct prejudicial to the government when he failed to remit the payment of the training program conducted by Niaconsult. The evidence presented sufficiently established that Ocampo received the payments of ADBN through its representative, GTZ, Philippines the amount of US $9,600.00 and that he failed to account this and remit the same to the corporation. All these acts constitute dishonesty and untrustworthiness.

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[11]

Padilla vs. Sto. Tomas [G.R. No. 109444. March 31, 1995.]
En Banc, Kapunan (J): 2 concur, 1 took no part

Facts: On 2 November 1988, an administrative complaint for gross dishonesty, gross neglect of duty, inefficiency and incompetence in the performance of official duties and gross violation of the law, rules and reasonable office regulations was filed against Delano Padilla, former officer-in-charge of the Land Transportation Office (LTO) of Bacolod City. It was alleged that Padilla succeeded in having caused and approved the registration and/or transfer of ownership of 12 carnapped and stolen vehicles despite prior knowledge that existing laws, rules and regulations were violated in the registration and transfer thereof. As contended by LTO, Padilla failed to require confirmation of the Certificate of Registration and Official Receipts corresponding to the subject vehicles from the LTO district offices which issued the same. Had he done so, no registration and/or transfer of the vehicles would have been possible because all the supporting documents pertinent to them were spurious. Padilla filed his answer dated 26 December 1988 vehemently denying the charges against him. The matter was set for hearing on 20 April 1989. However, only prosecutor Ramon Cuyco and his witness, Alfonso Alianza, were present. Padilla and his counsel failed to appear despite due notice. Consequently, the case was heard ex-parte and was considered submitted for decision. After considering the evidence on record, the Administrative Action Board (AAB) of the Department of Transportation and Communications (DOTC) through then DOTC Secretary Rainerio Reyes rendered a decision and found Padilla guilty of the charges filed against him, and accordingly sentenced that he be dismissed from the service; that he be disqualified for reemployment in the government service; that his leave credits and retirement benefits be declared forfeited; and that his civil service eligibility be recommended to be cancelled. Padilla filed a motion for reconsideration. However, instead of ruling on the merits of the motion, the AAB-DOTC deferred action thereon and scheduled the case for hearing. Finally, on 20 November

1989, after several resets, his motion for reconsideration was denied.

Padilla appealed to the Merit System Protection Board (MSPB) seeking reversal of the AAB-DOTC's decision. On 25 March 1991, the MSPB rendered a decision affirming the decision of the AAB-DOTC. His appeal was therefore ordered dismissed. A motion for reconsideration of the same was denied on 17 February 1992. Aggrieved by the foregoing rulings, petitioner elevated the case to the Civil Service Commission (CSC). On 16 July 1992, the CSC issued Resolution 92-888, affirming the MSPB decision and thus ruling that Padilla is guilty of Gross Dishonesty, Gross Neglect of Duty, Inefficiency and Incompetence in the Performance of Official Duties and Gross violation of Law, Rules and Reasonable Office Regulations and is meted out the penalty of dismissal. A motion for reconsideration of the same decision was denied in Resolution 92-1849 dated 17 November 1992. Subsequently, Padilla filed a Motion for New Trial seeking the reversal of Resolution 92-888 and 92-1849. Said motion was considered a second motion for reconsideration, hence, was accordingly denied on 16 February 1993 in Resolution 93-511-A by the CSC. On 6 April 1993, Padilla filed a petition for certiorari.

The Supreme Court dismissed the petition for lack of merit.

1. Due process; Essence, In Administrative proceedings; Formal trial-type hearing not necessary

The essence of due process is that a party be afforded reasonable opportunity to be heard and to submit any evidence he may have in support of his defense. In administrative proceedings, due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. In the present case, Padilla was given ample opportunity to present his case. He was not denied his right to due process. One may be heard, not only by verbal presentation but also, sometimes more eloquently, through pleadings. "Due process is not semper et ubique judicial process." Hence, a formal or trial-type hearing is not, at all times, necessary. So long as a party is afforded fair and reasonable opportunity to explain his side, the requirement of due process is complied with.

2. DOTC Memorandum Circular 123, s. 1989

For the purpose of determining the authenticity and genuineness of the Certificate of Registration attached to an application for registration of a transferred motor vehicle, the Department of Transportation and Communications issued Memorandum Circular 123 on 27 December 1989 with the following pertinent provision on the mandatory requirement of a Certificate of Clearance from the previous agency of registration, to wit "In the case where the transferred motor vehicle is being registered in any Agency other than the Agency where the vehicle has been originally registered, a Certificate of Clearance shall first be obtained from such Agency of previous registration; provided, however, that such clearance shall state, among others, the description of the motor vehicle, name of the registrant/owner, file number of the Registration Certificate, date of registration, Official Receipt number of payment and the amount of payment."

3. Certificate of Clearance mandatory for all transfer of ownership of motor vehicles

A Certificate of Clearance or confirmation is mandatory for all transfers of ownership of motor vehicles when done in an agency, or district office as the case may be, other than the issuing agency of such certificate of registration. When the requirement is dispensed with, the evil sought to be avoided and eliminated, that is, the concealment of the true status and identity of the motor vehicle, remains unabated. In the present case, it was clearly established from the records that Padilla did not require the submission of Certificates of Clearance from the agencies of previous registration affecting the 12 motor vehicles in question.

4. Substantial evidence in administrative proceedings

In administrative proceedings where evidence submitted is substantial, meaning, evidence that a reasonable mind might accept as adequate to support a conclusion, the proper penalty must be imposed on that erring official. In the present case, Padilla did not require the submission of Certificates of Clearance

from the agencies of previous registration affecting the 12 motor vehicles in question. This amply demonstrates his obvious disregard of the law, rules and regulations, gross neglect of duty, dishonesty and incompetence in the performance of official functions. The evidence is clear and substantial to support the conclusion that Padilla indeed failed to discharge an essential official function reposed on him.

5. Duties and obligations as head of agency outlined in DOTC rules and regulations

DOTC rules and regulations unequivocably outline Padilla's duties and obligations as head of an agency. He has to require a Certificate of Clearance from the previous LTO issuing agency, in addition to a clearance from CHPG. Anything short of that is an abdication of his duties as head of an LTO office. Thus, the deed of sale, the certificate of registration and the PC Clearance of the CHPG, do not properly approximate the legal requirement of a Certificate of Clearance or confirmation from the previous agency.

6. Cause of cause

"El que es causa de la causa es causa del mal causado." He who is the cause of the cause is the cause of the evil caused. (1 Cuello Calon, Codigo Penal, 12th ed. 1968, pp. 335-336) The rule applies in the present case.

7. Polestar of official performance

Among those in the service of the government, it has been a policy declared that: "It is the policy of the state to promote a high standard of ethics in public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest. (RA 6713, Section 2)." The foregoing policy should always be the polestar of official performance. Without such guiding star, the public service shall fail. Padilla's actions in the 12 motor vehicles did not only run afoul of the pertinent laws, and rules connected therewith, but also did violence to the foregoing basic policy of the state. The magnitude of the acts committed, along with the massive evidence marshalled by the prosecution, dictate that a finding of guilt against Padilla be a matter of duty.

8. Findings of administrative body supported by substantial evidence accorded respect, if not finality

Where findings of an administrative body which has acquired expertise because its jurisdiction is confined to specific matters are amply supported by substantial evidence, such findings are accorded not only respect but also finality.

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[12]

RCPI vs. NTC [G.R. No. 66683. April 23, 1990.]
En Banc, Bidin (J): 11 concurring, 1 concurring in result, 2 on leave

Facts: On 4 January 1984, PLDT filed an application with NTC for the Approval of Rates for Digital Transmission Service Facilities under NTC Case 84-003. On 25 January 1984, the NTC provisionally approved the application for currency adjustments of 1% for every P.10 increase or decrease of the peso to a dollar (using as starting basis the currency adjustment of P14 to $1) and set the case for hearing within the prescribed 30-day period allowed by law. On 2 February 1984, the NTC issued a notice of hearing, setting PLDT's application for hearing on 22 February 1984 (930 am). In the notice of hearing, the Radio Communications of the Philippines, and the Clavecilla Radio System were not included in the list of affected parties. At the hearing, PT & T Co., along with other petitioners which came to know of the pending petition through the former, appeared and moved for some time within which to file an opposition or reply to said application. They alleged that neither NTC nor PLDT informed them of the existence of this provisional authority, and that the issuance of the provisional authority by the NTC without notice and hearing constitutes

grave abuse of discretion inasmuch as such power or prerogative exists only for rate cases under Section 16(c) of the Public Service Act.. Hence, the petition for certiorari and prohibition with preliminary injunction and/or restraining order seeking to annul and set aside the 25 January 1984 order of the NTC in NTC Case 84-003 and to prohibit the NTC from taking cognizance of, and assuming jurisdiction over the "Application for Approval of Rates for Digital Transmission Service Facilities" of the PLDT for lack of jurisdiction.

In the Resolution of 21 March 1984, the Second Division of the Supreme Court required the NTC and PLDT to comment, issued a TRO and transferred the case to the Court En Banc which was accepted in the resolution of 5 April 1984. The Supreme Court dismissed the petition for lack of merit and affirmed the assailed order of the NTC. The TRO issued on 21 March 1984 was set aside.

1. Section 16(c) of the Public Service Act (CA 146)

Section 16(c) of the Public Service Act provides for the fixing of rates, by the Commission, which shall be imposed and observed by any public service, as follows: to fix and determine individual and Joint rates, tolls, charges, classifications, or schedules thereof, as well as commutation, mileage, kilometrage, and other special rates which shall be imposed, observed and followed thereafter by any public service: Provided, That the Commission may, in its discretion, approve rates proposed by public services provisionally and without necessity of any hearing; but it shall call a hearing thereon within thirty days, thereafter, upon publication and notice to the concerns operating in the territory affected: Provided, further That in case the public service equipment of an operator is used principally or secondarily for the promotion of a private business shall be considered in relation with the public service of such operator for the purpose of fixing the rates."

2. Application for approval of rates for digital transmission service facilities may be approved provisionally and without necessity of notice

The Public Service Commission found that the application involved in the present petition is actually an application for approval of rates for digital transmission service facilities which it may approve provisionally and without the necessity of any notice and hearing as provided in the provision of law. The Public Service Commission is empowered to approve provisionally rates of utilities without the necessity of a prior hearing (Republic v. Medina, 41 SCRA 643 [1971]). Under the Public Service Act, as amended, the Board of Communications, now the NTC, can fix a provisional amount for the subscriber's investment to be effective immediately, without hearing (par. 3, Sec. 16, CA 146, as amended; Philippine Consumers Foundation, Inc. v. NTC, 131 SCRA 260 [1984]). The Public Service Act makes no distinction between initial or revised rates. These rates are necessarily proposed merely, until the Commission approves them (Republic v. Medina).

3. Reason for provisional approval of revised rates without published notices or hearing

Moreover, the Commission can hear and approve revised rates without published notices or hearing. The reason is easily discerned from the fact that provisional rates are by their nature temporary and subject to adjustment in conformity with the definitive rates approved after final hearing (Republic v. Medina, supra; Cordero v. Energy Regulatory Board, G.R. No. 83931, November 3, 1988, En Banc, Minute Resolution). This was so stated in the present case, i.e. in the NTC order of 25 January 1984.

4. NTC did not grant any authority to engage in any new communication service, merely approved provisionally schedule of rates

The Commission did not grant the PLDT any authority to engage in any new communication service, but merely approved provisionally PLDT's proposed revision of its then authorized schedule of rates for the lease on availment by end-users of the digital full period leased lines or channels for data transmission which said company acquired, installed, and presently maintain in serviceable condition, a relief well within its power to grant.

5. Public utility entitled to just compensation for property used in public service

Undoubtedly, a public utility is entitled to a just compensation and a fair return upon the value of its property while it is being used in public service (Phil. Shipowners' Ass'n. v. Public Utility Commissioner, 43 Phil. 328 [1922]; Ynchausti Steamship Co. v. Public Utility Commissioner, 42 Phil. 624 [1922]).

6. Lack of notice cured

As to the required notice, it is impossible for the NTC to give personal notice to all parties affected, not all of them being known to it. More than that, there is no dispute that the notice of hearing was published and as admitted by petitioners, one of them received the notice which in turn informed the others. In fact, the petitioners have timely opposed the petition in question, so that lack of notice was deemed cured. Under the circumstances, the Commission may be deemed to have substantially complied with the requirements (Matienzo v. Abellera, 162 SCRA 1 [1987]).

7. Provisional nature of authority and full hearing safeguards against abuse

The provisional nature of the authority and the fact that the primary application shall be given a full hearing are the safeguards against its abuse (Matienzo v. Abellera, supra).

8. Maximum rate fixed in a franchise subject to revision, otherwise power to review rendered nugatory; Duty of the NTC to see to the needs and interest of the public

The maximum rate fixed in a franchise which its holder is authorized to collect, is always subject to a revision and regulation by the Public Service Commission (now NTC). For if such maximum rate is not subject to alteration, the power of the Commission to review would be rendered nugatory, as it cannot be said that the power to revise may be exercised only where the franchise does not impose a limitation (Manila Gas Corporation v. De Vera, et al., 70 Phil. 321 [1940]). Therefore, the authority of the Commission to issue ex parte a provisional permit to operate proposed public service is not absolute but is based on the superior and imperative necessity of meeting an urgent public need (Veneracion v. Congson Ice Plant & Cold Storage, Inc., 52 SCRA 119 [1973]). It is the duty of the PSC, (now NTC) to see to the needs and interest of the public (Dizon v. PSC, 50 SCRA 500 [1973]).

9. Presumption of reasonable rates, reasonable discretion; Court will not interfere unless there is an abuse of discretion; Court do not interfere with administrative action prior to its completion

There is a legal presumption that the rates are reasonable and it must be conceded that the fixing of rates by the government through its authorized agent, involves the exercise of reasonable discretion, and unless there is an abuse of that discretion, the courts will not interfere (Ynchausti Steamship Co. v. Public Utility Commissioner, supra; Manila Electric Company v. De Vera, et al., 66 Phil. 161 [1938]). Likewise, as a rule, the court does not interfere with administrative action prior to its completion or finality (Matienzo v. Abellera, 162 SCRA 1 [1988]).

10. Findings of administrative officials and agencies accorded respect, even finality if supported by substantial evidence

Where the law confines in an administrative office the power to determine particular questions or matters upon the facts presented, the jurisdiction of such office shall prevail over the courts. Findings of administrative officials and agencies who have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only respect but at times even finality if such findings are supported by substantial evidence (Lianga Bay Logging Co., Inc. v. Enage, 152 SCRA 80-81 [1987]).

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[13]

Suntay v. People [GR L-9430]
En Banc, Padilla (p) : 9 concurring

Facts: On 26 June 1954, Dr. Antonio Nubla, father of Alicia Nubla, a minor of 16 years, filed a verified complaint against Emilio Suntay in the Office of the City Attorney of Quezon City, alleging that on or about June 21, 1954, the accused took Alicia from St. Paul's College in Quezon City with lewd design and took her to somewhere near the UP compound in Diliman and was then able to have carnal knowledge of her. On 15 December 1954, after an investigation, an Assistant City Attorney recommended to the City Attorney of Quezon City that the complaint be dismissed for lack of merit. On 23 December 1954 attorney for the complainant addressed a letter to the City Attorney of Quezon City wherein he took exception to the recommendation of the Assistant City Attorney referred to and urged that a complaint for seduction be filed against the petitioner. On 10 January 1955 the petitioner applied for and was granted a passport by the Department of Foreign Affairs (No. 5981 [A39184]). On 20 January 1955 the petitioner left the Philippines for San Francisco, California, where he is at present enrolled in school.

On 31 January 1955 the offended girl subscribed and swore to a complaint charging the petitioner with seduction which was filed, in the CFI Quezon City, after preliminary investigation had been conducted (Crim. case Q-1596). On 9 February 1955 the private prosecutor filed a motion praying the Court to issue an order "directing such government agencies as may be concerned, particularly the National Bureau of Investigation and the Department of Foreign Affairs, for the purpose of having the accused brought back to the Philippines so that he may be dealt with in accordance with law." On 10 February 1955 the Court granted the motion.

On 7 March 1955 the Secretary cabled the Ambassador to the US instructing him to order the Consul General in San Francisco to cancel the passport issued to the petitioner and to compel him to return to the Philippines to answer the criminal charges against him. However, this order was not implemented or carried out in view of the commencement of this proceedings in order that the issues raised may be judicially resolved. On 5 July 1955 petitioner's counsel wrote to the Secretary requesting that the action taken by him be reconsidered, and filed in the criminal case a motion praying that the Court reconsider its order of 10 February 1955. On 7 July 1955 the Secretary denied counsel's request and on 15 July 1955 the Court denied the motion for reconsideration. Hence the petition.

The Supreme Court denied the petition, with costs against the petitioner.

1. Due process not necessarily mean having a hearing

Due process does not necessarily mean or require a hearing. When discretion is exercised by an officer vested with it upon an undisputed fact, such as the filing of a serious criminal charge against the passport holder, hearing may be dispensed with by such officer as a prerequisite to the cancellation of his passport; lack of such hearing does not violate the due process of law clause of the Constitution; and the exercise of the discretion vested in him cannot be deemed whimsical and capricious because of the absence of such hearing. If hearing should always be held in order to comply with the due process of law clause of the Constitution, then a writ of preliminary injunction issued ex parte would be violative of the said clause.

2. Court's jurisdiction and procedure to be adopted

The petitioner is charged with seduction. And the order of the respondent Court directing the Department of Foreign Affairs "to take proper steps in order that the accused may be brought back to the Philippines, so that he may be dealt with in accordance with law," is not beyond or in excess of its jurisdiction. When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by these rules, any suitable process or mode of proceeding may be adopted which appears most conformable to the spirit of said rules. (Section 6, Rule 124.)

3. No "Quasi-Judicial Hearing" necessary if passport holder is facing criminal charges

Hearing would have been proper and necessary if the reason for the withdrawal or cancellation of the passport were not clear but doubtful. But where the holder of a passport is facing a criminal charge in our courts and left the country to evade criminal prosecution, the Secretary for Foreign Affairs, in the exercise of his discretion (Section 25, EO 1, S. 1946, 42 OG 1400) to revoke a passport already issued, cannot be held to have acted whimsically or capriciously in withdrawing and cancelling such passport. Suntay's suddenly leaving the country in such a convenient time, can reasonably be interpreted to mean as a deliberate attempt on his part to flee from justice, and, therefore, he cannot now be heard to complain if the strong arm of the law should join together to bring him back to justice. In issuing the order in question, the Secretary was convinced that a miscarriage of justice would result by his inaction and as he issued it in the exercise of his sound discretion, he cannot be enjoined from carrying it out.

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[14]

Tolentino vs. SSC [G.R. No. L-28870. September 6, 1985.]
Second Division, Makasiar (J): 4 concurring, 2 on leave

Facts: [GR L-28870] Amado Tolentino was employed as an Editorial Assistant in the SSS before 14 April 1961 with a salary of P2,400.00 per annum. His appointment as such was duly approved by the Civil Service Commission. On 14 April 1961, he was given a promotion in salary from P2,400.00 per annum to P2,580.00 per annum effective 1 March 1961. This promotion in salary was likewise duly approved by the CSC. On 16 March 1962, his designation was changed from Editorial Assistant to Credit Analyst. This appointment was also duly approved by the CSC. On 15 June 1964, he was given an appointment reinstating him to his former position as Credit Analyst. This reappointment was extended to him following his resignation from the SSS to run for a municipal position in his municipality in the 1961 elections. On 16 June 1964, he took his Oath of Office. On 11 May 1965, his designation was changed from Credit Analyst to Technical Assistant effective 1 January 1965, with an increase in salary from P2,580.00 per annum to P4,200 per annum. It was the position of Technical Assistant (Executive Assistant) that Tolentino was holding when the SSC passed Resolution 1003 on 15 September 1966 affirming the decision of Administrator Gilberto Teodoro finding Tolentino guilty of dishonesty, as charged, and imposing upon him the penalty of dismissal from the service, effective on the first day of his preventive suspension (6 July 1966) with prejudice to reinstatement. Under dates of May 23 and 24, 1966, respectively, the Administrator filed charges against Tolentino for dishonesty and electioneering. Tolentino answered in two separate letters. The administrator was unsatisfied with his denial, and an investigation ensued, with Tolentino in preventive suspension. On 30 September 1966, Tolentino received a letter dated 20 September 1966 from the Administrator informing him, among others, of his dismissal from the service by virtue of Resolution 1003 of the SSC.

On 10 November 1966, Tolentino filed with the CFI Rizal (Quezon City, Branch IX) a petition for mandamus with preliminary mandatory injunction questioning the validity of Resolution 1003. On 5 June 1967, after the parties had submitted memoranda to support their respective contentions on the question raised by the pleadings, the lower court rendered an order dismissing Tolentino's petition for lack of jurisdiction over the SSC because the latter ranks with the CFI in the exercise of the quasi-judicial powers granted to it by the Social Security Act of 1954, as amended, following the decision of this Honorable Tribunal in Poblete Construction Co., et al. vs. Social Security Commission, et al. (GR L-17605, promulgated 22 January 1964). On 12 August 1967, Tolention filed a motion for reconsideration, which was denied in an order dated 1 December 1967. Hence, the present petitions for review by certiorari involve two different decisions of two different tribunals.

[GR L-39149] On 7 May 1968, the Prosecution Division of the CIR filed with said court a complaint on motion of the SSS Employees Labor Union — NLU and Amado Tolentino charging the SSS and Gilberto Teodoro with commission of unfair labor practices (Case 5042 — ULP). On 5 March 1974, the CIR rendered

a decision declaring the SSS and Gilberto Teodoro guilty of unfair labor practice and ordering the reinstatement of Tolentino with back wages. On 13 August 1974, the CIR en banc denied the motion for reconsideration dated 12 March 1974 filed by the SSS, the petition for review on certiorari.

On 13 January 1975, the Supreme Court issued a resolution in GR L-39149 consolidating the two appeal cases as both involve the same parties and substantially the same issues. The Supreme Court remanded to the Office of the Commissioner of Civil Service for appropriate action the questioned Resolution 1003 together with the records thereof, and set aside as null void the decision and resolution appealed from in GR L-39149 for having been rendered without jurisdiction; without costs.

1. Jurisdiction over subject matter vested by law; Once acquired, continues until terminated

Jurisdiction over the subject matter is vested by law. It is not acquired by the consent or acquiescence of the parties, nor the unilateral assumption thereof by any tribunal (Bacalso vs. Ramolete, G.R. No. L-22488, October 26, 1967; De Jesus vs. Garcia, L-26816, February 28, 1967). Jurisdiction of a court or tribunal is determined by the statute in force at the time of the commencement of the action (Aquisap vs. Basilio, L-21293, December 29, 1967; Rilloraza vs. Arciaga, L-23848, October 31, 1967; People vs. Pegarum, 58 Phil. 715). And once acquired, jurisdiction continues, regardless of "subsequent happenings", until the case is finally terminated (People vs. Pegarum, 57 Phil. 715).

2. Laws and jurisprudence relevant to the case

The pertinent laws under the circumstances are the Social Security Act of 1954 (RA 1161), as amended by RA 2658 (which took effect 18 June 1960) and the Civil Service Act of 1959 (RA 2260). Mendoza vs. SSC (L-29189, April 11, 1972, 44 SCRA 373) is in point.

3. Mendoza case: Section 33 of the Civil Service Law of 1962 (Republic Act 2260); Administrative Jurisdiction for Disciplining Officers and Employees

The law provides that "the Commissioner may, for dishonesty, oppression, misconduct, neglect of duty, conviction of a crime involving moral turpitude, notoriously disgraceful or immoral conduct, improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children, violation of the existing Civil Service Law and rules of reasonable office regulations, or in the interest of the service, remove any subordinate officer or employee from the service, demote him in rank, suspend him for not more than one year without pay or fine him in an amount not exceeding six months' salary. In meting out punishment, like penalties shall be imposed for like offenses and only one penalty shall be imposed in each case.

4. Mendoza case: Imposition of disciplinary actions on civil service employees vested exclusively in the CSC

Section 33 of the Civil Service Act (Republic Act 2260), before the amendments introduced therein by RA 6040, the sole power to impose disciplinary sanctions on civil service employees was vested exclusively in the Commissioner of Civil Service. This is emphasized by the provisions of section 27 of the Civil Service Rules requiring the Department Head concerned within 15 days from receipt of the complete record of the case, to forward such record with his comment and recommendation to the Commissioner for decision, so that the Department Head's powers were purely recommendatory; it had no power to decide nor impose any penalty, much less to implement the decision or carry it out into execution.

5. Mendoza case: Article II, Section 3 of Civil Service Act of 1959; Scope of Civil Service, positions embraced in the Civil Service

The law provides that "the Philippine Civil Service shall embrace all branches, subdivisions and instrumentalities of the Government, including government-owned or controlled corporations, and appointments therein except as to those which are policy-determining, primarily confidential or highly technical in nature, shall be made only according to merit and fitness, to be determined as far as practicable

by competitive examination. Positions included in the civil service fall into three categories; namely, competitive or classified service, noncompetitive or unclassified service and exempt service. The exempt service does not fall within the scope of this law."

6. Mendoza case: Section 3 (c) of the Social Security Act of 1954, as amended by RA 2658; Social Security System

The law provides that "the Commission, upon the recommendation of the Administrator, shall appoint an actuary, medical director, and such other personnel as may be deemed necessary, shall fix their compensation, prescribe their duties and establish such methods and procedures as may insure the efficient, honest and economical administration of the provisions and purpose of this Act: Provided, however, That the personnel of the system shall be selected only from civil service eligibles certified by the Commissioner of Civil Service and shall be subject to civil service rules and regulations'."

7. Mendoza case: Civilian non-elective officer exempt service if employment through a contract

In order to belong to the exempt service and thus forfeit the protection of the Civil Service Law, a civilian non-elective officer must have obtained employment through a contract. In fact, section 2, paragraph (j), of the Civil Service Rules, interpreting section 6 of the Act, declares that "the term 'persons employed on a contract basis' refers to independent contractors and those who may be employed by them; it does not include employees or laborers who serve under the direction and supervision of a governmental agency, except aliens who may be thus employed on a contract basis when the exigencies of the service so require. In this context, the term 'independent contractor' refers to one who undertakes to do a piece of work for the government under his own responsibility, with minimum interference on the part of any governmental agency in the performance or accomplishment thereof."

8. Mendoza case: RA 6040, Legislature extended the scope of the exempt service

In RA 6040, the Legislature extended the scope of the exempt service to persons employed in government owned or controlled corporations primarily performing proprietary functions with collective bargaining agreements; and that furthermore, the same Act also amended section 33 of the Civil Service Act by adding at the end of the original section the provisos "Provided, however, that heads of departments, agencies and instrumentalities, provinces and chartered cities, shall have original jurisdiction to investigate and decide on matters involving disciplinary action. Provided further, that when the penalty imposed is a reprimand or a fine not exceeding one month salary or suspension without pay for a period not exceeding one month the decision of the aforementioned heads shall be final; but if the penalty imposed is heavier the decision shall be appealable to the Commission as provided in this Act: Provided finally, that a decision imposing removal shall always be subject to review by the Commission."

9. Mendoza case: RA 6040 cannot be applied retroactively

Had the present case arisen, therefore, under Republic Act 6040, the Social Security Commission would have had jurisdiction, after due investigation, to impose the penalty of demotion subject only to appeal by the officer or employee affected to the Civil Service Commission. Unfortunately RA 6040 was enacted on 4 August 1969. RA cannot be retroactively applied to the case, specially since the same act expressly provides in its section 47 that "'rights and privileges vested or acquired under the provisions of the Civil Service Law, rules and regulations prior to the effectivity of this Act shall remain in force and effect."

10. Resolution 1003 implemented when Administrator had no power to hear and decide disciplinary charges against erring employees of the Commission; Resolution may be treated as a recommendation

At the time Resolution 1003 was promulgated and implemented dismissing Amado Tolentino, the respondents-appellees Social Security Commission, Gilberto Teodoro and Angel Penano did not have the power to hear and decide administrative and disciplinary charges filed against erring employees of the Commission. Still, Resolution 1003 shall not be dismissed as inutile. The Social Security Commission, as an

agency of the government, may be considered a department and Gilberto Teodoro, its department head. Resolution 1003 may be treated as the recommendation of the department head which may be submitted to the Civil Service Commission for decision and or appropriate action.

11. RA 6040 void insofar as it insulates GOCCs from embrace of CSC, as it conflicts with Article XII (B), Section 1 (1) of the 1973 Constitution

By RA 6040, the legislature extended the scope of the exempt service to persons employed in government owned or controlled corporations primarily performing proprietary functions with collective bargaining agreements; in addition, it appended the proviso to section 33 of the Civil Service Act, i.e. "Provided, however, that heads of departments, agencies and instrumentalities, provinces and chartered cities, shall have original jurisdiction to investigate and decide on matters involving disciplinary action: Provided further, that when the penalty imposed is a reprimand or a fine not exceeding one month salary or suspension without pay for a period not exceeding one month, the decision of the aforementioned heads shall he final; but if the penalty imposed is heavier the decision shall be appealable to the Commission as provided in this Act: Provided finally, that a decision imposing removal shall always be subject to review by the Commission." However, Section 1(1), Article XII (B) of the 1973 Constitution reads "The Civil Service embraces every branch, agency, subdivision, and instrumentality of the Government, including every government-owned or controlled corporation." Insofar as Republic Act No. 6040 insulates government-owned or controlled-corporations with collective bargaining agreements with their employees from the embrace of the Civil Service Commission, said statute is inconsistent with the fundamental law of the land. As such, it is void (Article 7, New Civil Code).

12. CIR lacks jurisdiction, decision void; Jurisdiction belongs to CSC

The decision of the Court of Industrial Relations dated 5 March 1974, and its subsequent en banc resolutions dated 13 August 1974 are null and void, the same having been issued without jurisdiction. At the time Amado Tolentino was charged with and convicted of dishonesty in 1966 up to the time the Prosecution Division of the Court of Industrial Relations filed with said court the unfair labor suit docketed as Case 5042-ULP on 7 May 1968, the power to impose disciplinary sanctions on erring employees of the Social Security Commission was vested exclusively in the Commissioner of Civil Service, without prejudice to appeal to the Civil Service Board of Appeals (sections 18 and 36, R.A. 2260). Consequently, the Court of Industrial Relations, created under Commonwealth Act 103, a statute of earlier vintage, had no jurisdiction over Case 5042-ULP. Again, jurisdiction of a court is determined by the statute in force at the time of the commencement of the action (Aquisap vs. Basilio, supra; Rilloraza vs. Arciaga, L-23848, October 31, 1967; People vs. Pegarum, supra).

13. Court found no necessity to scrutinize the CIR's findings

The Court found no further need to scrutinize the findings of the Court of Industrial Relations. To do so would benefit no one.