



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

AILEEN ANGELA S. ALFORNON,
Petitioner,

G.R. No. 203657

Present:

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
MENDOZA,* and
LEONEN, *JJ.*

- versus -

Promulgated:

11 JUL 2016

RODULFO DELOS SANTOS and
EDSEL A. GALEOS,
Respondents.

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DECISION

BRION, *J.*:

Assailed in this petition for review on *certiorari* under Rule 45 of the Rules of Court¹ are the **February 29, 2012** decision² and the **September 5, 2012** resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 05722.

The CA found petitioner Aileen Angela S. Alfornon (*Alfornon*) guilty of serious dishonesty and upheld her dismissal from the service, with forfeiture of retirement benefit except for accrued leave credits, and perpetual disqualification for reemployment in government service.

* On Official Leave.

¹ *Rollo*, pp. 3-15.

² Id. at 179-192; Penned by Executive Justice Pampio A. Abarintos, and concurred in by Associate Justice Eduardo B. Peralta, Jr. and Associate Justice Gabriel T. Ingles.

³ Id. at 205-207.

The Facts

In November 2003, Alforon worked as a casual employee for the Municipality of Argao, Cebu. She eventually became a permanent employee on February 16, 2007, as an Administrative Aide IV.

Alforon filled-up, and submitted, a Personal Data Sheet (*PDS*) as one of the documents required to become a permanent government employee. When confronted with the question: “Have you ever been formally charged?”, she answered “NO” despite remembering that she was previously charged with the crime of estafa before the Regional Trial Court (*RTC*) in Lapu-Lapu City, Cebu. According to her, she was advised by her co-employees that it did not matter if she denied having a case against her because the case was dismissed before she even entered government service.

On September 25, 2009, respondent Edsel A. *Galeos*, the Municipal Mayor of Argao, issued Memorandum Order No. 2009-23 informing Alforon that a copy of her warrant of arrest in the estafa case had been forwarded to his office pursuant to an investigation conducted by Mrs. Socorro Seares.⁴ Alforon was required to show cause within twenty-four (24) hours from receipt of the memorandum why she should not be dismissed from the service.⁵

In her letter to Galeos,⁶ Alforon explained that it was never her intention to make any material misrepresentation in her PDS. She alleged that the question was confusing as it connotes a legal question as to when a person is considered to have been formally charged. She sought the Municipal Mayor’s pardon saying that she believed she was not formally charged because she was never convicted of the charge. In fact, she claimed that she never received the warrant of arrest because the case was subsequently dismissed by the RTC on July 25, 2002.⁷

On October 8, 2009, respondent Rodolfo Delos Santos (*Delos Santos*), a security aide in the Office of the Municipal Mayor of Argao, executed an affidavit formally charging Alforon of Serious Dishonesty. The following day, Galeos forwarded the affidavit to the LGU-Argao Fact-Finding Committee.

On October 20, 2009, Alforon was required to submit to the LGU-Argao Fact-Finding Committee, within three (3) days from receipt of the subpoena, her counter-affidavit and all other documentary evidence supporting her case.⁸ Alforon duly complied.

⁴ Id. at 122.

⁵ Id.

⁶ Id. at 123.

⁷ Id. at 131.

⁸ Id. at 134.

After Delos Santos filed his reply-affidavit, Alforon, in turn, filed her rejoinder-affidavit.

On November 25, 2009, after considering the affidavits and documents filed, the LGU-Argao Fact-Finding Committee issued a report recommending that Alforon be dismissed from the service.⁹

The committee believed that Alforon's answer was motivated by malice, bad faith, and the deliberate intent to mislead her employer who was then entertaining other applicants for the position.

On December 14, 2009, pursuant to the recommendation submitted before him, Galeos ordered Alforon's dismissal from the service.¹⁰

Aggrieved, Alforon appealed before the Civil Service Commission (CSC).¹¹

Ruling of the CSC

In its **August 10, 2010** decision, the CSC granted the appeal of Alforon, and set aside Memorandum Order No. 2009-26 dated December 14, 2003, dismissing her from the service.¹²

The CSC essentially held that Alforon was denied due process for noncompliance with the Uniform Rules on Administrative Cases in the Civil Service (*URACCS*).¹³ Based on its review of the records, the Commission found that a formal investigation was immediately conducted without Galeos – as the disciplining authority – issuing any formal charge. This procedural lapse, according to the Commission, was not in accordance with Sections 15 & 16, Rule II of the *URACCS*, and thus violated Alforon's right to due process.

Accordingly, the CSC directed Galeos to immediately reinstate Alforon to her former position, and to pay her backwages and other benefits from the time she was illegally dismissed.

On **January 11, 2011**, the CSC issued a resolution denying Galeos' motion, noting that the motion simply rehashed the same issues which the Commission had already resolved.¹⁴

The CSC further held that there was no legal basis to consider the endorsement of the complaint-affidavit filed against Alforon as a formal charge because it lacked the necessary requirements. To be considered a

⁹ Id. at 156.

¹⁰ Id. at 164-165.

¹¹ Id. at 16-50.

¹² Id. at 51-58.

¹³ The *URACCS* was revised on November 8, 2011 and is now known as the Revised Rules on Administrative Cases in the Civil Service (*RRACCS*).

¹⁴ *Supra* note 11, at 78-83.

formal charge, the CSC pointed out, it must have informed Alforon that she had the right to file an answer, to request for a formal investigation, and to be assisted by counsel.

On February 21, 2011, Galeos, through counsel, filed a petition for review under Rule 43 of the Rules of Court before the CA.

Ruling of the CA

In the assailed February 29, 2012 decision, the CA reversed the August 10, 2010 decision and the January 11, 2011 resolution of the CSC, and reinstated Memorandum Order No. 2009-26 dated December 14, 2003.

The CA ruled that Alforon's right to due process was never impaired as the records reveal that:

- (1) Memorandum No. 2009-23 was issued requiring Alforon to show cause why she should not be dismissed on the ground of non-disclosure that she had been formally charged with estafa in 2002;
- (2) Alforon submitted her written explanation on October 2, 2009;
- (3) She was given sufficient notice of the complaint-affidavit of Delos Santos against her and of the setting of the hearings of her administrative case;
- (4) She was issued a subpoena directing her to submit to the committee within three (3) days from notice to file her counter-affidavit and supporting documents;
- (5) Galeos issued Memorandum Order No. 2009-26 ordering her dismissal after the parties had submitted their arguments and evidence; and
- (6) Alforon sought recourse with the CSC by filing an appeal.

Additionally, the CA affirmed the finding that Alforon was guilty of dishonesty which it found to be supported by substantial evidence. Finally, the CA found no merit in Alforon's defense of good faith.

After the CA denied her motion for reconsideration in its September 5, 2012 resolution, Alforon filed the present petition.

Our Ruling

The issues raised in this case are both questions of law, which we can properly take cognizance of in a Rule 45 review. A question of law exists when the doubt or controversy concerns the correct application of law or

jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted.¹⁵

Alforon essentially questions the application of the law and jurisprudence on the issues of (1) whether she was afforded due process before she was dismissed from the service, and (2) whether she committed a lesser degree of dishonesty, warranting a less harsh penalty than dismissal.

No further examination of the truth or falsity of the facts is required in this case because Alforon admitted that she failed to disclose in her PDS that she had been previously charged with estafa. Our review of the case is limited to the determination of whether the CA and the administrative tribunals correctly applied the law and jurisprudence based on the facts on record.

We agree with the CA that Alforon's right to due process was not impaired.

Alforon argues that her right to due process was violated because Galeos, as the Municipal Mayor of Argao, disregarded Sections 15 & 16, Rule 3 of the URACCS, which provide:

Section 15. *Decision or Resolution After Preliminary Investigation.* – If a *prima facie* case is established during the investigation, a formal charge shall be issued by the disciplining authority. A formal investigation shall follow.

In the absence of a *prima facie* case, the complaint shall be dismissed.

Section 16. *Formal Charge.* – After a finding of a *prima facie* case, the disciplining authority shall formally charge the person complained of. The formal charge shall contain a specification charge(s), a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge(s) in writing under oath in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his answer whether or not he elects a formal investigation of the charge(s) and a notice that he is entitled to be assisted by a counsel of his choice.

If the respondent has submitted his comment and counter-affidavits during the preliminary investigation, he shall be given the opportunity to submit additional evidence.

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¹⁵ *Bukidnon Doctors' Hospital v. Metropolitan Bank & Trust Co.*, G.R. No. 161882, July 8, 2005, 463 SCRA 222, 223, citing *Republic v. Sandiganbayan*, G.R. No. 102508, January 30, 2002, 375 SCRA 145. See also *Almero v. Heirs of Pacquing*, G.R. No. 199008, November 19, 2014, <http://sc.judiciary.gov.ph/>; *Far Eastern Surety and Insurance Co., Inc. v. People*, G.R. No. 170618, November 20, 2013, <http://sc.judiciary.gov.ph/>; and *Century Iron Works, Inc. v. Bañas*, G.R. No. 184116, June 19, 2013, 699 SCRA 157.

After carefully examining the records of this case, we find that there was substantial compliance in following the procedure laid down in the URACCS.

This case started when Galeos discovered that Alforon had a previous warrant of arrest issued against her. When Galeos realized that Alforon previously declared in her PDS that she had never been formally charged, he issued Memorandum No. 2009-23 requiring her to explain her PDS declaration.

In *Garcia v. Molina*,¹⁶ we held that the respondents were denied due process because they were not given the opportunity to air out their side before the disciplining authority filed formal charges against them.¹⁷ Here, however, Alforon was able to explain her side and, in fact, admitted that she gave a false answer in her PDS.

What happened next was a deviation from the procedure laid down in the URACCS. Following Alforon's letter-reply to Memorandum No. 2009-23, Delos Santos filed a complaint-affidavit against her with a letter addressed to the investigation committee for proper action. On the following day, Galeos endorsed the letter-complaint of Delos Santos to the investigation committee and requested a formal investigation. In our view, this endorsement can be equated to the formal charge required by the URACCS after the preliminary investigation.

What followed after the endorsement was a formal investigation conducted by the LGU-Argao Fact-Finding Committee. After determining that the complaint was sufficient in form and in substance, the committee issued a subpoena,¹⁸ which Alforon received on October 21, 2009, requiring her to submit her counter-affidavit and supporting documentary evidence. Alforon, in turn, duly complied and filed her counter-affidavit. She was likewise able to file a rejoinder-affidavit after Delos Santos filed a reply-affidavit. It was only after all the pleadings and documents had been submitted that the committee gave its recommendation to Galeos to dismiss Alforon from the service.

From the foregoing, we are convinced that there was substantial compliance with the procedure laid down in the URACCS (now RRACCS) before Alforon's dismissal was resolved.

Besides, there is no requirement in the administrative determination of contested cases for strict adherence to technical rules in the manner observed in judicial proceedings.¹⁹ Administrative tribunals exercising quasi-judicial powers are unfettered by the rigidity of certain procedural requirements,

¹⁶ G.R. No. 157383, August 10, 2010, 627 SCRA 520.

¹⁷ Id. at 553.

¹⁸ *Rollo*, p. 134.

¹⁹ *Commissioner of Internal Revenue v. Hantex Trading Co., Inc.*, G.R. No. 136975, March 31, 2005, 454 SCRA 301; *Velasquez v. Hernandez*, G.R. No. 150732, August 31, 2004, 437 SCRA 357; and *Ocampo v. Office of the Ombudsman*, G.R. No. 114683, January 18, 2000, 322 SCRA 17.

subject to the observance of fundamental and essential requirements of due process, in justiciable cases presented before them.²⁰ For as long as the right to due process is recognized and respected, administrative tribunals may relax the technical rules of procedure.

The essence of due process is simply the opportunity to be heard.²¹ Due process – in administrative proceedings – is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself.²² The filing of charges and a fair and reasonable opportunity to explain one's side suffice to meet the minimum requirements of due process.²³

In the present case, Alforon was given every opportunity to face the charges of dishonesty against her. She was able to give her answer during the initial investigation before Galeos and before the formal investigation conducted by the LGU-Argao Fact-Finding Committee.

Also, Alforon sought reconsideration before the CSC. While the filing of a motion for reconsideration does not necessarily cure a violation of the right to due process,²⁴ the move, however, gives due recognition to the right to due process.²⁵

All told, we affirm the CA's finding that Alforon's right to due process was not violated.

This conclusion notwithstanding, we find the petition partially meritorious because the penalty of dismissal from service is not proportionate to the dishonesty Alforon committed. We find the penalty of outright dismissal from government service with forfeiture of benefits too severe under the circumstances of Alforon's case.

The records show that the respondents' legal basis for considering Alforon's dishonesty as serious was CSC O.M. No. 40 s. 2010, implementing CSC Resolution No. 06-1009 dated June 5, 2006. We note that CSC Resolution No. 06-1009 merely corrected a provision in CSC Resolution No. 06-0538 dated April 4, 2006,²⁶ to wit:

²⁰ *Samalio v. Court of Appeals*, G.R. No. 140079, March 31, 2005, 454 SCRA 462, 471.

²¹ See *Municipality of Butig, Lanao del Sur v. Court of Appeals*, G.R. No. 138348, December 9, 2005, 477 SCRA 115; *Casimiro v. Tandog*, G.R. No. 146137, June 8, 2005, 459 SCRA 624; and *Montemayor v. Bundalian*, G.R. No. 149335, July 1, 2003, 405 SCRA 264.

²² *Ledesma v. Court of Appeals*, 565 Phil. 731, 740 (2007).

²³ *Cayago v. Lina*, G.R. No. 149539, January 19, 2005, 449 SCRA 29, 44-45. See also *Autencio v. Mañara*, G.R. No. 152752, January 19, 2005, 449 SCRA 46; and *Ziga v. Arejola*, A.M. No. MTJ-99-1203, January 10, 2003, 403 SCRA 361.

²⁴ See *PAGCOR v. Court of Appeals*, 678 Phil. 513, 531 (2011).

²⁵ See *Mayon Hotel & Restaurant v. Adana*, G.R. No. 157634, May 16, 2005, 458 SCRA 609; and *Philippine Merchant Marine School, Inc. v. Court of Appeals*, G.R. No. 112844, June 2, 1995, 244 SCRA 770. See also *Rivera v. Civil Service Commission*, G.R. No. 115147, January 4, 1995, 240 SCRA 43, where this Court said that in order that the review of the decision of a subordinate officer might not turn out to be a farce, the reviewing officer must be other than the officer whose decision is under review.

²⁶ Otherwise known as the Rules on the Administrative Offense of Dishonesty.

Section 1. Section 7 of CSC Resolution No. 06-0538 dated April 4, 2006, also known as the Rules on the Administrative Offense of Dishonesty, is hereby amended to read as follows:

Section 7. *Transitory Provision.* – These rules shall not apply to dishonesty cases already decided with finality prior to the effectivity hereof. All pending cases of dishonesty or those filed within three (3) years after the effectivity hereof, **shall be labeled as Serious Dishonesty *without prejudice to the finding of the proper offense after the termination of the investigation.*** [emphasis, italics, and underscoring ours]

The terms of this provision, to our mind, show that the CSC never intended to automatically consider a case of dishonesty as serious. The phrase “*without prejudice to the finding of the proper offense*” implies that the disciplining body can still find a government employee guilty of only less serious or simple dishonesty if warranted by the circumstances of a case.

In fact, CSC Resolution No. 06-0538 provides for different circumstances when dishonesty is considered serious, less serious, or simple.²⁷

Dishonesty has been defined as the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive, or betray and an intent to violate the truth.²⁸ For dishonesty to be considered serious – warranting the penalty of dismissal from the service – the presence of any one of the following attendant circumstances must be present:

- (1) The dishonest act caused serious damage and grave prejudice to the Government;
- (2) The respondent gravely abused his authority in order to commit the dishonest act;
- (3) Where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he is directly accountable and the respondent shows an intent to commit material gain, graft and corruption;
- (4) The dishonest act exhibits moral depravity on the part of the respondent;
- (5) The respondent employed fraud and/or ***falsification of official documents in the commission of the dishonest act related to his/her employment***;
- (6) The dishonest act was committed several times or in various occasions;

²⁷ See CSC Resolution No. 06-0538 (2006), Sections 2, 3 & 4.

²⁸ *Office of the Ombudsman v. Torres*, 567 Phil. 46, 57 (2008). See also *Office of the Court Administrator v. Ibay*, A.M. No. P-02-1649, November 29, 2002, 393 SCRA 212; and *OCAD v. Yan*, A.M. No. P-98-1281, April 27, 2005, 457 SCRA 389-390.

- (7) The dishonest act involves a Civil Service examination irregularity or fake Civil Service eligibility such as, but not limited to impersonation, cheating and use of crib sheets;
- (8) Other analogous circumstances.²⁹ [emphasis, italics, and underscoring ours]

In the present case, while the falsification in Alforon's PDS can be considered as a dishonest act related to her employment, we find that suspension is the more proportionate penalty for her dishonesty.

Our recent disposition in *Committee on Security and Safety v. Dianco* shows that we do not automatically dismiss dishonest government employees; rather, their penalty would depend on the gravity of their dishonesty, to *wit*:³⁰

CSC Resolution No. 06-0538 thus reflects a departure from the Draconian treatment of dishonest conduct under the Old Uniform Rules [...]. The Uniform Rules did not contain any standard for classifying dishonesty, for which reason, this Court had ruled that a finding of dishonesty carries the indivisible penalty of dismissal.³¹ The advent of CSC Resolution No. 06-0438, however, *humanized the penalties for acts falling under the general category of dishonesty* and categorized the conduct, depending upon its effect, the offender's position, the intent and moral depravity of the offender, and other analogous circumstances.³²

As explained in *Fernandez v. Vasquez*,³³ the penalty of dismissal for dishonesty is not exclusive; mitigating circumstances – *i.e.* lengths of government service, good faith and other analogous circumstances – may be appreciated in imposing the proper penalty. Jurisprudence is replete with cases where we lowered the penalty of dismissal to suspension taking into account the presence of mitigating circumstances.³⁴ Thus, the penalty for dishonesty is relative to the attendant circumstances of the erring government official to be punished.

In *Advincula v. Dicen*,³⁵ the petitioner submitted his PDS, declaring therein that there was no pending administrative and criminal cases against him and that he had not been convicted of any administrative offense. The records reveal, however, that at that time there were criminal and

²⁹ CSC Resolution No. 06-0538 (2006), Section 2.

³⁰ A.M. No. CA-15-31-P, June 16, 2015, p. 9.

³¹ Thus, in *Bacsarsar v. Civil Service Commission*, G.R. No. 180853, January 20, 2009, 576 SCRA 787, we stated that dishonesty alone, because it is a grave offense, carries the extreme penalty of dismissal from service. In the subsequent case of *Retired Employee, Municipal Trial Court, Sibonga, Cebu v. Merlyn Manubag*, A.M. No. P-10-2833, December 14, 2010, 638 SCRA 86, we held likewise that dishonesty being in the nature of a grave offense, carries the extreme penalty of dismissal from service.

³² The same treatment is reflected in the Revised Rules on Administrative Cases in the Civil Service, enacted on November 18, 2011.

³³ A.M. No. RTJ-11-2261, July 26, 2011, 654 SCRA 349.

³⁴ *Office of the Court Administrator v. Flores*, A.M. No. P-07-2366, April 16, 2009, 585 SCRA 82, citing *OCA v. Ibay*, AM No. P-02-1649, 29 November 2002; *OCA v. Sirios*, AM No. P-02-1659, 28 August 2003, 410 SCRA 35. See also *Office of the Court Administrator v. Aguilar*, A.M. No. RTJ-07-2087, June 7, 2011, 651 SCRA 13.

³⁵ G.R. No. 162403, May 16, 2005, 458 SCRA 696.

administrative cases pending against the petitioner. Moreover, it was later on discovered that the petitioner had already been convicted for simple misconduct. When the case was brought before this Court, we *affirmed* the finding that the petitioner was guilty of dishonesty but *imposed the penalty of suspension from office for six (6) months without pay*.³⁶

Likewise, in *Yalung v. Pascua*,³⁷ the erring judge made the same misrepresentation that there had been no pending case against him when, in fact, an administrative and a criminal case had been filed against him. In imposing the penalty of suspension for six (6) months, we took into consideration of the length of time he served in government, and the fact that he had no prior administrative record as the cases against him were eventually dismissed.

Considering Alforon's continued service to the Municipality of Argao, Cebu since 2003, among others, she only deserves to be suspended for, at most, six (6) months; her outright dismissal from the service would be too harsh. Accordingly, Alforon's reinstatement is in order as she has been out of government service since December 14, 2009, far beyond the period for her supposed suspension.

Alforon, however, is not entitled to backwages because she is not completely exonerated from the charge against her.³⁸ A finding of liability for a lesser offense is not equivalent to exoneration.³⁹ Likewise, the mere reduction of the penalty on appeal does not entitle a government employee to back salaries as he was not exonerated of the charge against him.⁴⁰

WHEREFORE, premises considered, we hereby partially **GRANT** the petition, **REVERSE** the February 29, 2012 decision and the September 5, 2012 resolution of the Court of Appeals in CA-G.R. SP No. 05722, and order the Municipality of Argao, Cebu to **REINSTATE** Aileen Angela S. Alforon to the position she was holding prior to her dismissal on December 14, 2009, without loss of seniority rights.

SO ORDERED.


ARTURO D. BRION
Associate Justice

³⁶ Id. at 700.

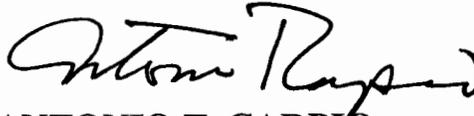
³⁷ A.M. No. MTJ-01-1342, June 21, 2001, 411 SCRA 765.

³⁸ See *Secretary of Education, Culture and Sports v. Court of Appeals*, G.R. Nos. 128559 & 130911, 342 SCRA 40, 49-50, citing *Alipat v. Court of Appeals*, G.R. No. 132841, June 21, 1999, 308 SCRA 781, 788-789; and *Bangalisar v. Court of Appeals*, G.R. No. 124678, July 31, 1997, 276 SCRA 619.

³⁹ *Jacinto v. Court of Appeals*, G.R. No. 124540, 14 November 1997, 281 SCRA 657, 682.

⁴⁰ *Civil Service Commission v. Cruz*, G.R. No. 187858, August 9, 2011, 655 SCRA 214. See also *City Mayor of Zamboanga v. Court of Appeals*, G.R. No. 80270, February 27, 1990, 182 SCRA 785.

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice

(On Official Leave)

JOSE CATRAL MENDOZA
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice