



Civil Service Commission

Constitution Hills, Batasang Pambansa Complex, Diliman, Manila

CLEMENTE, Jose Antonio M.
Re Simple Misconduct
(Appeal)

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This is a

**MUST - READ
RESOLUTION**

CSC Res No. 07-0778 dated April 19, 2007
CSLO

RESOLUTION NO. 070778

Purificacion R. Claravall, a retired professor of the University of the Philippines, appeals Decision No. 2004-145 promulgated by the Civil Service Commission Regional Office No. 1 (CSCRO No. I) on August 12, 2004. The decision declared Jose Antonio M. Clemente, Legal Officer I of the Department of Agrarian Reform, Ilocos Norte Provincial Office, guilty of Simple Misconduct and meted him with a penalty of fine equivalent to one-month salary.

Pertinent portions of the assailed decision read:

"After considering all the attendant facts and circumstances this Office opines that Clemente is guilty of Simple Misconduct.

"WHEREFORE, premises considered, Jose Antonio Clemente is hereby meted the penalty of fine equivalent to his one month salary."

The Civil Service Commission, in a Memorandum dated June 9, 2005, ordered the CSCRO No. I to comment on Claravall's appeal. Thus, on June 30, 2005, the CSCRO No. I commented, viz:

"This Office finds the arguments raised in the said appeal to have been passed upon in Decision No. 2004-145. Wherefore, consistent with our conclusion embodied in the said decision, the same is reiterated as our comment."

Extracted from the records of this case are the following salient facts:

Purificacion R. Claravall is the daughter of the deceased Lucas Claravall, registered owner of about five hectares of agricultural land in Barangay Barong, Dingras, Ilocos Norte. In 1955, due to old age, Lucas Claravall appointed his nephew Atty. Amador Castro to administer the property. Unfortunately, Atty. Castro died in 1987 leaving his brother Angel Castro who "by self-appointment" assumed the duties of administrator.

In May 1999, coming home after her retirement from her professorial career in Manila, Claravall confronted Angel Castro on alleged "administrator irregularities, surreptitious chicaneries, tax muddles/ delinquencies since 1974" relative to the parcels of land. Barangay Lupon proceedings were held but proved futile when Castro suddenly migrated to the United States sometime in July or August 1999. Hence, being the lone heir left in the Ilocos region, Claravall was left with no alternative but to administer and preserve the property of her late father.

To meet the urgent demand for payment of tax arrears, Claravall instructed all tenants of the parcels of land to deliver to her the “*abang*” or share in the harvest. But the tenants were in a quandary as to whether they should follow her orders or those still communicated by Castro. Thus, Claravall decided to consult the Department of Agrarian Reform Provincial Office in Ilocos Norte. The DAR Provincial Office referred her to Jose Antonio M. Clemente, Legal Officer I, assigned to handle cases coming from the Dingras-Solsona area.

After learning the concerns of Claravall, Clemente proposed that the Dingras property of the Claravalls be subject to leasehold contract or “*Tulag ti Panagabang ti Talon*.” But to successfully do so, he said the landholdings had to be surveyed. Believing that the proposition was the solution to her problem, Claravall took Clemente’s words. She expressed though that she knew no surveyor. At that point, Clemente suggested the services of “someone whom I am using in the past in matters or problem of similar import” whose fee was P3,500 per hectare. Claravall agreed to hire the services of the person referred by Clemente.

On June 14, 2001, Claravall and Clemente went to the parcels of land with a man by the surname of Valenzuela and a small boy carrying a roll of measurement. The man was introduced by Clemente as the surveyor. Valenzuela, with the aid of the small boy, “surveyed” the lands until sunset. Thereafter, Clemente demanded from Claravall the payment of the services of the surveyor. Failing to carry a large sum of money, Claravall promised payment the next day.

On June 15, 2001, Claravall made partial payment of P10,000 to Clemente in his office. But Clemente refused to accept the amount. Instead, he led Claravall to a canteen across the DAR office where the payment was received without issuance of receipt. Additional payment of P5,000 was received in the same manner on June 18, 2001. Claiming that the land measures more than 5 hectares, Clemente demanded additional P2,500 from Claravall who expressed willingness to pay but only after the result of the land survey would be presented to her.

On October 16, 2001, after persistent demands from Clemente to produce the survey results, Claravall was given a “scratch paper” containing figures purportedly representing the areas cultivated by the eleven (11) tenants. Feeling shortchanged for what she has paid as surveyor’s fees and seemingly trapped into what she described as a “vicious circle *ad infinitum*,” Claravall sought the assistance of many government offices (*i.e.*, the Provincial Agrarian Reform Office in Laoag City, DAR Regional Office in San Fernando City, DAR-Quezon City and the CSCRO No. 1 in San Fernando City) for the production of the survey “maps/plans for which I gave/handed fifteen thousand pesos to Mr. Jose Antonio Clemente.”

On June 3, 2002, the CSCRO No. 1 formally received Claravall’s Affidavit-Complaint for Dishonesty against Clemente. Later, she also filed a criminal case for estafa against Clemente in the Office of the City Prosecutor in Laoag City. The CSCRO No. 1 requested Clemente to comment on the complaint.

On July 5, 2002, the CSCRO No. 1 received Clemente’s letter-reply expressing that he “never defrauded much more fooled” complainant. He averred that he merely suggested

the services of the person who conducted the measurement or "rokod" of the parcels of land. He admitted receipt of the P15,000 but it was allegedly meant for delivery to the surveyor. He expressed willingness to return the money.

On July 10, 2002, the CSCRO No. I received a letter from Claravall unmasking the identity of the "surveyor." Claravall disclosed that she personally interviewed the surveyor whose name is Elmar Valenzuela, a neighbor of Clemente in Dingras. She discovered that Valenzuela is a graduate of AB Political Science and a pawnshop manager. Claravall requested from Valenzuela the maps/BL form sketches/ plans. But she was told by Valenzuela that the task agreed upon with Clemente was "area determination for the Department of Agrarian Reform (DAR)" and that "I was paid one thousand five hundred pesos (P1,500.00) only including my boy-assistant."

On the strength of the documents submitted by both parties, the CSCRO No. I issued a Formal Charge for Simple Misconduct against Clemente on January 17, 2003. Clemente filed his answer on March 8, 2003 reiterating his defense that he merely acted as a go-between for Claravall and Valenzuela.

From March 2003 to April 2004, several schedules for preliminary hearing conferences were set by the CSCRO No. I. On May 24, 2004, the CSCRO No. I issued an Order requesting the parties to submit their Position Paper/ Memorandum. Both parties complied. Thereafter, the CSCRO No. I promulgated Decision No. 2004-145 on August 12, 2004. Significant portions of the disputed decision read:

"It is very clear xxx that the actions of Clemente with respect to the case of Claravall were beyond his responsibility as DAR employee; that the survey of the property of Claravall is not part of DAR's responsibility; and that the transaction between them (Claravall and Clemente) is personal.

xxx

"Common sense will tell us that no person will return something that he did not receive. xxx the actions of Clemente with respect to the case of Claravall were beyond his responsibility as DAR employee; that the survey of the property of Claravall is not part of DAR's responsibility; and that the transaction between them (Claravall and Clemente) is personal.

xxx

xxx

"We find the acts xxx merely constitutive of Simple Misconduct, the same having no direct relation to and connected with the performance of his official duties."

"After considering all the attendant facts and circumstances this Office opines that Clemente is guilty of Simple Misconduct.

"WHEREFORE, premises considered, Jose Antonio Clemente is hereby meted the penalty of fine equivalent to his one month salary."

Unsatisfied with the CSCRO No. I ruling, Claravall, through counsel, filed a Notice of Appeal. In her Appellant's Memorandum, she assigns as error the following:

"The Regional Director gravely erred in finding respondent guilty of simple misconduct only."

Contending that Clemente should have been found guilty of a graver offense thereby warranting his dismissal from the service, Claravall argues:

"[T]he acts of respondent in misrepresenting Valenzuela as a "surveyor" and demanding such amount as surveyor's fees indicates his predeliction to dishonesty. It was grave dishonesty for respondent to misrepresent Valenzuela as a surveyor and do some professional work – the result of which was to be submitted with his office to become the basis of official disposition on matter of leasehold contracts being processed therein."

The focal issue for resolution in this case is whether the Commission can upgrade a Formal Charge of Simple Misconduct already decided upon with finality by the Regional Office.

The answer is in the negative.

At the outset, the Commission notes that the Formal Charge issued by CSCRO No. I was inconsistent with the facts borne by the records. The argument that the misconduct was not related to Clemente's functions as Legal Officer I of the DAR Provincial Office is without merit. A painstaking scrutiny of the records shows that what triggered the whole controversy of this case was Clemente's "legal advice" – as Legal Officer I – that the landholdings of the Claravalls be subject to leasehold agreement, which *inter alia*, allegedly required a land survey. In referring the services of a "fake surveyor," Clemente knew from the start that he is involved in a serious deception grossly and flagrantly violating established rules and norms. In the instant case, the CSCRO No. I erred in openly ignoring its connection or relation with Clemente's functions as Legal Officer I.

Nevertheless, much as the Commission feels that a graver offense and penalty should have been charged and correspondingly meted upon Clemente, the peculiar circumstances underlying this case left the Commission with no option but to write *finis* to the instant controversy.

Case law is replete with the basic tenet that "an accused cannot be held guilty for an offense higher than that with which he is charged in the complaint or information on which he is tried. It matters not how conclusive and convincing the evidence of guilt may be, but an accused cannot be convicted of any offense unless it is charged in the complaint or information which he is tried or is necessarily included therein. He has a right to be informed of the nature of the offense with which he is charged before he is put on trial. To convict an accused of a higher offense than that charged in the complaint or information on which he is tried would be an unauthorized denial of that right." (**People vs. Ramos, 296 SCRA 559 [1998]; People vs. Fuertes, 296 SCRA 602 [1998]**)



In **CSC vs. Lucas, 301 SCRA 560 [1999]**, the Supreme Court succinctly put:

"[A] basic requirement of due process is that a person must be duly informed of the charges against him and that xxx a person can not be convicted of a crime with which he was not charged." (emphasis supplied)

In the case at bar, the records show that Claravall had willfully and knowingly participated in the proceedings of the regional office. When Claravall was notified of the Formal Charge issued by the CSCRO No. I, the remedy for her should have been to immediately elevate it to the Commission for review. However, such action was unarguably not availed of by her. Hence, the Commission is bound only by the charge of Simple Misconduct filed against Clemente.

It is well-settled that a decision that has acquired finality becomes immutable and unalterable. A final judgment may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law; and whether it will be made by the court that rendered it or by the highest court of the land. (**Ramos vs. Ramos, 399 SCRA 43 [1999]**)

Litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that once a judgment has become final, the issue or cause involved therein should be laid to rest. (**Honoridez vs. Mahinay, 466 SCRA 646 [2005]**). The doctrine of finality of judgment is grounded on fundamental considerations of public policy and sound practice that at the risk of occasional error, the judgments of the court must become final at some definite date fixed by law. To allow courts to amend final judgments will result in endless litigation. This doctrine applies equally to quasi-judicial agencies. (**Mendiola vs. Civil Service Commission, 221 SCRA 295 [1993]**)

In the case at bar, the penalty imposed by the CSCRO No. I was a fine equivalent to thirty (30) days' salary. Under the URACCS, a decision imposing a fine in an amount not exceeding thirty (30) days' salary is final and executory. Hence, the foregoing principles on finality of judgment squarely apply in the instant case.

One last word. If only to stress the importance of taking seriously the issuance of a Formal Charge, officers tasked to prosecute Civil Service offenses are reminded of the pronouncement of the Supreme Court in **Dimatulac vs. Villon, 297 SCRA 679 [1998]**, viz:

"Prosecutors must never forget that they are the representatives not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all xxx. As



such, they are in a peculiar and every definite sense the servants of the law whose two-fold aim is that guilt shall not escape or innocence suffer.

"Prosecutors are charged with the defense of the community aggrieved by an offense, and are expected to prosecute the public action with such zeal and vigor as if they were the ones personally aggrieved, but at all times cautious that they refrain from improper methods designed to secure a wrongful conviction. With them lies the duty to lay before the court the pertinent facts at the judge's disposal with strict attention to punctilios, thereby clarifying contradictions and sealing all gaps with evidence, with a view to erasing all doubt from the court's mind as to the accused innocence or guilt."

WHEREFORE, premises considered, the appeal of Prof. Purificacion R. Claravall is hereby **DISMISSED**. Accordingly, the Civil Service Commission Regional Office No. 1 Decision dated August 12, 2004 finding Jose Antonio M. Clemente guilty of Simple Misconduct and imposing upon him the penalty of fine equivalent to one-month salary is **AFFIRMED**.

The regional office is, however, admonished to be more circumspect and prudent in issuing formal charges in the future that they may truly be a reflection of the facts of the case.

Let a copy of this Decision be furnished to the Secretary of the Department of Agrarian Reform and DAR Region I Director that they may be informed of the nefarious activities or misdemeanors of Clemente.

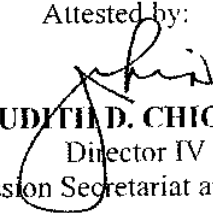
Quezon City. **APR 19 2007**


KARINA CONSTANTINO-DAVID
Chairman


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Attested by:


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