



Republic of the Philippines
Supreme Court
Manila

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SUPREME COURT OF THE PHILIPPINES
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Deputy Division Clerk of Court
Third Division

THIRD DIVISION

SEP 18 2019

FREDERICK L. SURIAGA,
Petitioner,

G.R. No. 238191

Present:

- versus -

PERALTA, J.,
Chairperson,
LEONEN,
REYES, A., JR.,
HERNANDO,* and
INTING, JJ.

**COMMISSIONERS ALICIA
DELA ROSA-BALA and
ROBERT S. MARTINEZ,**
Respondents.

Promulgated:

August 28, 2019

Mis-DCBatt

X-----X

DECISION

REYES, A., JR., J.:

Challenged before this Court *via* this Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court is the Decision² dated November 8, 2017 and the Resolution³ dated March 21, 2018 of the Court of Appeals (CA), in CA-G.R. SP No. 148700, which dismissed petitioner Frederick L. Suriaga's (Suriaga) appeal for lack of merit.

The facts are aptly summarized by the CA.

Suriaga was a Fire Officer I with the Bureau of Fire Protection (BFP), who started working for the latter on July 15, 2003. He claimed that in 2001, when he was first applying with the BFP, he approached Nelson

* On wellness leave.

¹ *Rollo*, pp. 12-35.

² Penned by Associate Justice Jose C. Reyes, Jr. (now a Member of this Court), with Associate Justices Jane Aurora C. Lantion and Pablito A. Perez, concurring; *id.* at 37-44.

³ *Id.* at 46.

Reyes

Baguion (Baguion) of the Valenzuela Fire Station (VFS), through a certain FO3 Guevara, for his civil service eligibility, a necessary requirement for his application. Baguion allegedly asked for ₱25,000.00 in exchange for his civil service eligibility.⁴

Subsequently, Suriaga requested from the Integrated Records Management Office (IRMO) of the Civil Service Commission (CSC), the authentication of his Subprofessional eligibility, after obtaining a rating of 87.89 in the October 3, 2001 examination. During the verification process, the IRMO noted disparities in Suriaga's physical appearance and the signature appearing in the Picture Seat Plan, accompanied on the examination date, as well as his employee's identification card and driver's license. The IRMO, thus, issued a Memorandum to the Office for Legal Affairs (OLA) of the CSC for appropriate action.⁵

The OLA directed Suriaga to file an answer and in compliance thereto, Suriaga submitted his *Salaysay* dated December 4, 2012, wherein he acknowledged the questionable nature of his application, as well as his desire to testify on Baguion's alleged machinations.⁶ To wit:

3. Na noong ika-28 [ng] Nobyembre 2012, sa ganap na ika 1:05 ng hapon ay nakausap namin si Atty. Pablo ng Legal Affairs Services CSC, Quezon City at ipinaliwanag ang Career Service Subprofessional Examination held at CSC-CO Quezon City on October 3, 2001 na iba ang litrato at pirma, na inaamin ko ito na nagpatulong ako sa isang tao na nalaman ko ang pangalan noong ika-3 ng Disyembre 2012 kagaya ng nakasaad sa ibaba nito:

*Mr. Nelson Baguion
Valenzuela Fire Station
Valenzuela City;*

4. Na upang malaman ko kung siya ay nasa himpilan ng Pamatay Sunog ng Valenzuela ay nagtanong ako at wala ang pangalan ni Nelson:

5. Na gusto ko[ng] tumulong bilang testigo sa nangyari sa akin na maling pamamaraan na ginawa ni Nelson Baguion ay tutulong ako ng kumalap ng impormasyon kung saan ang nabanggit na pangalan;

6. Na, umaasa po ako na magkakaroon ng Konsiderasyon ang pag-apela ko ng mga Documento na kagaya ng mga sumusunod:

...

7. Na, nais ko pong magpatuloy ng Serbisyo sa Gobyerno higit sa lahat sa himpilan ng Pamatay Sunog ng Lungso[d] ng Las Piñas at ito po ay ipinagdarasal naming mag-asawa at pamilya nawa'y patawarin po ako sa aking nagawa na pagkakamali.⁷

⁴ Id. at 37.

⁵ Id. at 38.

⁶ Id.

⁷ Id.

Meyer

On March 20, 2013, the CSC formally charged Suriaga for Serious Dishonesty, and directed the CSC-National Capital Region (NCR) Branch to conduct the formal investigation of the case. During the preliminary conference, Suriaga submitted his Memorandum reiterating that Baguion took the October 3, 2001 Subprofessional examination on his behalf in consideration of the amount of ₱25,000.00. The CSC-NCR, thereafter, submitted its Investigation Report recommending the denial of Suriaga's application for failure to comply with the conditions for the grant of immunity from administrative prosecution. The CSC-NCR found that Suriaga failed to adduce sufficient evidence to support his allegations, particularly Baguion's participation in the examination anomaly.⁸

In the time period between the investigation and the CSC-NCR's submission of its report, Suriaga applied for a *Grant of Immunity from Administrative Prosecution with a Motion for Respondent's Discharge from the Formal Charge* before the CSC-NCR, under CSC Resolution No. 040275 (Policy Guidelines on Whistleblowers' Immunity from Prosecution in Examination Irregularity Cases). However, on August 11, 2016, the CSC, through Chairperson Alicia dela Rosa-Bala and Robert S. Martinez (respondents), promulgated a Resolution⁹ denying the grant of immunity while directing the CSC-NCR to proceed with the formal investigation of Suriaga's administrative case.

In denying the grant of immunity, the CSC held that while Suriaga was formally charged with the offense of Serious Dishonesty in connection with an examination irregularity, he failed to support his representation that Baguion took the Subprofessional examination for and on his own behalf. There was also no other evidence adduced other than Suriaga's *Salaysay*, thus, it could not be corroborated. The CSC, likewise, found that there was no basis in saying that Suriaga was not the most guilty, since he was not able to establish the existence of "Nelson Baguion" of the VFS, who allegedly took the Subprofessional examination for him.¹⁰

Suriaga's move for reconsideration was denied¹¹ by the CSC in a Resolution dated November 22, 2016, the dispositive portion reading, to wit:

WHEREFORE, the Motion for Reconsideration of Frederick L. Suriaga, Fire Officer I, Bureau of Fire Protection, Las Piñas City, is hereby DENIED. Accordingly, Civil Service Commission (CSC) Resolution No. 1600909 dated August 11, 2016 issued by the Commission, which denied his application/request for the Grant of Immunity from Administrative Prosecution, with a directive for the Civil

⁸ Id. at 38-39.

⁹ Id. at 39.

¹⁰ Id.

¹¹ Id. at 40.



Service Commission National Capital Region to proceed with the formal investigation of Suriaga's administrative case for Serious Dishonesty with dispatch. STANDS.

Quezon City.¹²

Suriaga then sought recourse with the CA which, likewise, denied his appeal for lack of merit. The CA first found that Suriaga's appeal, which was filed under Rule 43 of the 1997 Rules of Procedure, was the incorrect remedy, as the assailed CSC resolution was not a final judgment, but an interlocutory order.¹³ Said resolution of the CSC merely denied Suriaga's request for immunity and even explicitly directed the CSC-NCR to proceed with the formal investigation of Suriaga's administrative case for Serious Dishonesty.

As such, the CA stated that the proper remedy was a special civil action for *certiorari* under Rule 65 of the Rules of Court, where the aggrieved parties would have to prove that the resolution was issued without or in excess of jurisdiction and that there is neither appeal nor any plain, speedy and adequate remedy in the ordinary course of law.¹⁴

Independent of any procedural infirmity, the CA adhered to the CSC's findings that Suriaga failed to meet the requirements that would entitle him to immunity. The CA afforded great respect to the factual findings of the CSC, as it cited the well-established doctrine that quasi-judicial bodies such as the CSC are better equipped in handling cases involving the employment status of employees such as those in the Civil Service since it is within their field of expertise, and that said findings are generally held to be binding and final so long as they are supported by substantial evidence in the record of the case.¹⁵

Referring to *Reyes v. Hon. Ombudsman*,¹⁶ wherein the Court held that a grant of immunity from prosecution is a privilege, the soundness and timing of which are addressed solely to the discretion of the prosecuting body, in this case the CSC, the CA stated that not only did Suriaga, in effect, pass on the burden to the CSC to substantiate his own allegations, he failed to recall that the nature of an immunity from prosecution is a privilege granted by the State and not a right that may be demanded at will.¹⁷

The dispositive portion of the CA's Decision¹⁸ dated November 8, 2017 reads, thus:

¹² Id.

¹³ Id. at 42.

¹⁴ Id.

¹⁵ Id.

¹⁶ 783 Phil. 304, 343 (2016).

¹⁷ *Rollo*, p. 43.

¹⁸ Id. at 44.

Reyes

WHEREFORE, the petition is DENIED for lack of merit.

SO ORDERED.¹⁹

Suriaga's Motion for Reconsideration was dismissed for lack of merit. In this Petition to the Court, Suriaga argues that the CSC was mistaken in denying his request for a grant of immunity for the reason that his imputing of the examination anomaly to Baguion was found to be self-serving and unsubstantiated, and because Suriaga failed to show why he was not the most guilty, both crucial requisites before a request can be considered. For Suriaga, he was clearly able to comply with the requisites to be accorded the protection of the immunity. He points to the narration disclosed in his *Salaysay* which allegedly shows the participation of Baguion in the irregularity, to wit:

Ako po si Frederick L. Suriaga nag aapply ako nang bumbero Taon August 2001. Pumunta ako sa Las Pinas Fire Office at nakausap ko si CINSP Leynes at tinignan ang mga papeles ko at ang kulang daw ay Civil Service ang sabi kumuha muna ako, may nakausap ako si FO3 Guevera na sumama na lang ako sa kanya at may kakausapin kaming tao, nagpunta kami sa Valenzuela at nakausap namin[g] si Mr. Nelson Baguion – naka assigned sa Valenzuela Fire Station at sabi ni Mr. Nelson Baguion siya ang bahala at ikimaha nga kami ni Mr. Nelson Baguion ng Civil Service, naniwala ako na totoo ito kasi yong mga iba ay nung 2001 kasalukuyan ng nasa service at mga opisyal na, tulad nila FO3 Gueverra, Insp. Renato Salvador, C[i]nsp Linsangan at Arvin Soriano, pero si Arvin Soriano kasabay k[o]ng pumasok sa Bumbero at kasalukuyang FO2.

Bago kami ikimaha ni Mr. Nelson Baguion hiningan kami ng tag [P]25,000.00 at ID picture tapos signature siya na daw bahala at may kausap na daw sya sa loob. Yong [P]25,000.00 na hiningi niya marami din daw syang bibigyan kasama ang kanyang Boss, at ang sabi niya siya na ang bahala sa akin at sa mga kasama k[o]ng ikimaha niya ng exam sa Civil [S]ervice.²⁰

Suriaga argues that the said disclosure cannot be considered self-serving let alone wanting in evidence, as he had also made mention of several officers (*i.e.*, FO3 Guevarra, Inspector Renato Salvador, Chief Inspector Linsangan, and Arvin Soriano) who had benefited from the alleged *modus operandi* of Baguion.²¹ This disclosure, according to Suriaga, is indicative of transparency and truthfulness, bolstered by the high risk that he would face possible retaliation due to his testimony.

¹⁹ Id.

²⁰ Id. at 18.

²¹ Id. at 19.

As for the issue of lack of substantial basis for the grant of immunity, Suriaga argues that his statements could have been corroborated and substantiated had the CSC looked into the records of those persons named by him. Suriaga added that this was crucial as personal procurement of the documentary, as well as testimonial evidence, would be very difficult on his part. As related to the CSC's finding that, since Suriaga failed to establish Baguion's existence, there was no basis to Suriaga's assertion that he was not the most guilty, Suriaga states that his disclosure of Baguion's full name as well as his disclosure puts the burden on the CSC to confirm the same, and that to keep the burden on Suriaga to produce any records to substantiate his claims would render the immunity inutile.²²

Contrary to the findings of the lower tribunals, Suriaga posits the following assertions which prove that he is entitled to the grant of immunity:²³ *first*, he has not committed any other controversy; *second*, he is the least guilty being a victim persuaded by Baguion's inducement and promises, instead of being an actual transgressor; *third*, he at the onset offered to testify in favor of the government; *fourth*, the government had no difficulty eliciting an admission from him; *fifth*, his testimony is not only valuable but can also be substantiated in all its material points; *sixth*, aside from his *Salaysay*, wherein he readily admitted his guilt and offered to testify in favor of the government, in no time, he applied for immunity in writing; and *seventh*, to further cement his position to help the government eradicate such anomalous practices, he further offered to disclose under oath other "scalawags" in the department.

According to Suriaga, his fulfillment of all the requisites for the grant of immunity under Republic Act No. 9416²⁴ has rendered said grant a vested right in his favor. Consequently, it has become a ministerial duty of the respondents to grant the same.²⁵

Ruling of the Court

Suriaga's contentions are bereft of merit. The Court finds that Suriaga's substantial contentions are groundless and without merit. Suriaga was unable to adduce any substantial evidence to show that the lower tribunals committed grave abuse of discretion in finding, based on the records, that Suriaga was not entitled to a grant for immunity from prosecution.

²² Id. at 19-20.

²³ Id. at 20-24.

²⁴ AN ACT DECLARING AS UNLAWFUL ANY FORM OF CHEATING IN CIVIL SERVICE EXAMINATIONS, UNAUTHORIZED USE AND POSSESSION OF CIVIL SERVICE COMMISSION (CSC) EXAMINATION-RELATED MATERIALS, AND GRANTING THE CSC EXCLUSIVE JURISDICTION OVER THESE CASES INCLUDING THOSE COMMITTED BY PRIVATE INDIVIDUALS (Approved on March 25, 2007).

²⁵ *Rollo*, p. 24.

Meyer

The Court reiterates the time-honored doctrine that factual findings of administrative bodies like the CSC are binding on this Court, unless these findings are not supported by substantial evidence. All that is needed to support an administrative finding of fact is substantial evidence, which is defined as “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” Where the findings of fact of a quasi-judicial body are supported by substantial evidence, these findings are conclusive and binding on the appellate court.²⁶

In the case at bar, the Court finds that Suriaga not only failed to proffer substantial evidence to help his case, he likewise failed to overcome his burden to prove the CSC’s findings that he did not fulfill the requirements to be granted immunity.

CSC Resolution No. 040275, Items 1(C) and 2 give the requirements before an application for immunity from administrative prosecution may be granted to a public official or employee who has been previously formally charged for having participated or acted in conspiracy with another in the commission of an examination irregularity. To wit:

1. Who may avail of the Immunity?

x x x x

C) Any public official or employee xxx who, after a prima facie case is found to exist, has been formally charged for having participated or acted in conspiracy with each other in the commission of an examination anomaly and desires to be a witness shall likewise be exempt from administrative prosecution provided that the following circumstances are present:

x x x

i. The information or testimony must refer to the commission of examination irregularity constituting the offense of dishonesty or grave misconduct pursuant to Section 52 of the Uniform Rules on Administrative Cases in the Civil Service (now Revised Rules on Administrative Cases in the Civil Service);

ii. The information and testimony are necessary for the proper prosecution of the offense committed by the respondent public official or employee or of any private individual who is in conspiracy with him or her;

iii. Such information and testimony are not yet in the possession of the Civil Service Commission, or any government entity;

iv. Such information and testimony can be substantially corroborated on their material points; and

²⁶ *Barcelona v. Lim, et al.*, 734 Phil. 766, 793 (2014).

Meyer

- v. The informant or witness has not been previously convicted of a crime involving moral turpitude or perjury; and
- vi. The informant does not appear to be the most guilty.²⁷

In relation to the above is the CSC-NCR's findings contained in its report in relation to Suriaga's request for the grant of immunity:

In the instant case, however, other than the Salaysay executed by Suriaga on December 4, 2012, there are no other evidence adduced on record that would categorically prove the participation of Baguion in the said examination anomaly. Indeed, it is noted that Suriaga failed to sufficiently convince this Office that Baguion offered the services of taking the October 3, 2001 CSSE for and in behalf of Suriaga, for a fee of Twenty-Five Thousand Pesos (P25,000.00). Clearly, Suriaga's statement of imputing the examination anomaly to Baguion is self-serving and his failure to provide any evidence to support his allegations is evidently wanting.²⁸

Suriaga was unable to overcome the burden to show that he was eligible to be granted immunity contrary to the findings of the CSC. Based on our own independent review of the facts, the Court is inclined to agree with the findings of the lower courts.

Suriaga's allegation that he has information on other instances of examination irregularities in the CSC not only goes against the first requirement that the information offered must refer to the commission of the offense of dishonesty or grave misconduct, but denotes a groundless promise unsubstantiated by any supporting statements save for a random narration of names. The Court notes that Suriaga was unable to show how his information and testimony would be necessary for the proper prosecution of the offense committed. All Suriaga did was name himself the victim as well as his collaborator, in this case Baguion. As will be a continuous refrain regarding his allegations, Suriaga failed to expound as to the substance aside from a mere narration, and as a result the Court finds it difficult to see the necessity of the prosecution for the offense he was proven to have committed.

Also, Suriaga failed to show how his information and testimony can be substantially corroborated on their material points. Suriaga's argument lies in his belief that his statement could be corroborated or substantiated if only the CSC had looked into the records of those persons named by him. The Court finds this flimsy as it is Suriaga's burden of proof to show the substantial corroboration and not the CSC's, and Suriaga's attempted

²⁷ *Rollo*, pp. 90-91.

²⁸ *Id.* at 91.

Meyer

passing of the same to the latter will not exonerate him from the burden of having to prove the requisites.

As the party that is clearly the most guilty, having been caught red-handed to have a fraudulent issue with his application, the Court is convinced that Suriaga is not entitled to a grant of immunity as he was unable to show beyond a mere recitation of the requisites that he was eligible for the same. Aside from his self-serving statements, he failed to substantiate his claim that he should be granted immunity and that the CSC erred in denying his claim.

As a final word, Suriaga's assertion that it is his right to be granted immunity is spurious, as it is well-settled that the grant of immunity is not a right, but an exercise of discretion on the part of the prosecution.

As explained in *Quarto v. Hon. Ombudsman Marcelo, et al.*:²⁹

The decision to grant immunity from prosecution forms a constituent part of the prosecution process. It is essentially a tactical decision to forego prosecution of a person for government to achieve a higher objective. It is a deliberate renunciation of the right of the State to prosecute all who appear to be guilty of having committed a crime. Its justification lies in the particular need of the State to obtain the conviction of the more guilty criminals who, otherwise, will probably elude the long arm of the law. Whether or not the delicate power should be exercised, who should be extended the privilege, the timing of its grant, are questions addressed solely to the sound judgment of the prosecution. The power to prosecute includes the right to determine who shall be prosecuted and the corollary right to decide whom not to prosecute. In reviewing the exercise of prosecutorial discretion in these areas, the jurisdiction of the respondent court is limited. For the business of a court of justice is to be an impartial tribunal, and not to get involved with the success or failure of the prosecution to prosecute. Every now and then, the prosecution may err in the selection of its strategies, but such errors are not for neutral courts to rectify, any more than courts should correct the blunders of the defense.³⁰ (Citation omitted)

WHEREFORE, the petition is **DENIED**.

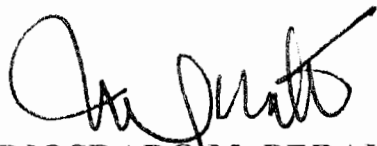
SO ORDERED.



ANDRES B. REYES, JR.
Associate Justice

²⁹ 674 Phil. 370 (2011).

³⁰ Id. at 392-393.

WE CONCUR:


DIOSDADO M. PERALTA
Associate Justice
Chairperson

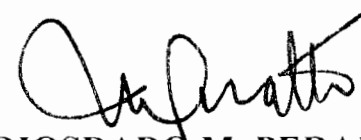

MARVIC M.V.F. LEONEN
Associate Justice

(On wellness leave)
RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

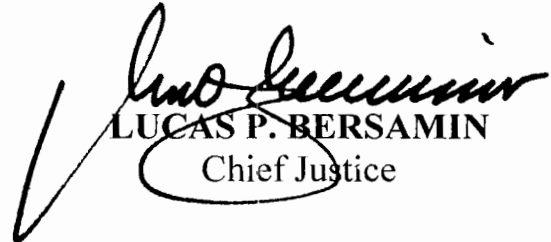
ATTESTATION

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.


DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third Division

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.


LUCAS P. BERSAMIN
Chief Justice

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MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

SEP 18 2019