



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MAHARLIKA A. CUEVAS,
Petitioner,

G.R. No. 208506


- versus -

Present:

ATTY. MYRNA V. MACATANGAY, in her capacity as Director IV of the Civil Service Commission and MEMBERS OF THE BOARD OF THE NATIONAL MUSEUM, namely; VIRGILIO ALMARIO, CORAZON ALVINA, SEN. EDGARDO ANGARA, JEREMY BARNES, FELIPE DE LEON, CONG. SALVADOR ESCUDERO III, MARINELLA K. FABELLA, FR. RENE PIO B. JAVELLANA, MARIA ISABEL G. ONGPIN, FELICE P. STA. MARIA and BENITO S. VERGARA,
Respondents.

CARPIO, J., Chairperson,
PERALTA,
MENDOZA,
PERLAS-BERNABE,* and
LEONEN, JJ.

Promulgated:

22 FEB 2017 

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DECISION

PERALTA, J.:

For this Court's resolution is the Petition for Review on *Certiorari* under Rule 45 With Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction dated September 18, 2013 of petitioner Maharlika A. Cuevas that seeks to reverse and set aside the

* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Special Order No. 2416-P dated January 4, 2017.



Decision¹ dated August 7, 2013 of the Court Appeals (CA), affirming Civil Service Commission (CSC) Resolution No. 10-1438² invalidating petitioner's appointment as Director III of the National Museum.

The facts follow.

Petitioner Maharlika Cuevas was one of the employees of the National Museum vying for the vacant position of Director III, and on October 23, 2008, Board Resolution No. 03-2008 was issued by the National Museum Board of Trustees, recommending for appointment Mr. Cecilio Salcedo and petitioner for the said position.

The then National Museum Board of Trustees Chairman, Antonio O. Cojuangco, appointed petitioner as Director III under a temporary status on November 24, 2008.

Unsatisfied, Elenita D.V. Alba, another applicant for the same position, filed a protest with the CSC, the latter referring the matter to the National Museum for resolution. In a letter to the CSC, dated August 14, 2009 by Director IV Corazon S. Alvina, the National Museum dismissed the protest and informed the CSC that the decision on petitioner's appointment is final.

Thereafter, on November 24, 2009, the then National Museum Board of Trustees Chairman, Antonio O. Cojuangco, appointed petitioner as Director III on a permanent status.

Still aggrieved, Elenita D.V. Alba appealed the dismissal of her protest to the CSC insisting that she is the most qualified for the contested position, and on July 27, 2010, the CSC issued Resolution No. 10-1438 finding no merit on Alba's claim. The CSC, however, found that the issuance of petitioner's appointment was not in accordance with Section 11 of Republic Act (R.A.) No. 8492, or the *National Museum Act of 1998*, which states that it is the Board of Trustees that shall appoint the Assistant Director or Director III and not the Chairman of the National Museum, thus:

Sec. 11. *Director of the National Museum; duties, programs and studies; annual report to Congress.* – The Board of Trustees shall appoint the Director of the Museum and two (2) Assistant Directors. The Director shall be in charge of the over-all operations of the Museum and implement the policies set by the Board of Trustees and programs approved by it. The Director shall have a proven track record of competent administration and

¹ Penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Japar B. Dimaampao and Elihu A. Ybañez, concurring; *rollo*, pp. 36-48.

² *Rollo*, pp. 103-109.

shall be knowledgeable about museum management. The Director, assisted by two (2) Assistant Directors, shall be in charge of the expanded archeological sites and the Regional Museum Division of the Museum.

The CSC further stated that there is nothing under the National Museum Act of 1998 that expressly authorizes the Board of Trustees to delegate any of its powers to the Chairman of the National Museum or to any official of the National Museum, thus:

In the case at hand, the Board of Trustees (BOT), which is the policy-making body and appointing authority of the National Museum under R.A. No. 8492, was relegated to function as the Personnel Selection Board (PSB) which subsequently recommended to then Chairman Cojuangco the appointment of Cuevas for the position of Director III. As such, the BOT abdicated to then Chairman Cojuangco its discretionary power to appoint the Director position. x x x

x x x x

Unlike the Higher Education Modernization Act of 1997 (R.A. No. 8292) which expressly allows Boards of State Universities and Colleges (SUCS) to delegate its powers, there is nothing under the National Museum Act of 1998 that expressly authorizes the BOT to delegate any of its powers to the Chairman of the National museum or to any official of the National Museum. Thus, in absence of statutory authority, the National Museum Board of Trustees may not alienate or surrender its discretionary power. In short, the exercise by then Chairman Cojuangco of the appointing power is not valid and the approval of Cuevas' temporary appointment should be recalled.

x x x x

In fine, considering that the exercise by then Chairman Cojuangco of the appointing power is not valid, the approval of Cuevas' temporary appointment should be recalled.

WHEREFORE, the appeal of Elenita D.V. Alba, Curator II, National Museum (NM) is **GRANTED**. Accordingly, the dismissal of her protest by NM Chairman Antonio O. Cojuangco against the promotional appointment of Maharlika A. Cuevas as Director III under temporary status is **REVERSED AND SET ASIDE**. The approval of Cuevas' temporary appointment as Director III by the Civil Service Commission, National Capital Region is **RECALLED**.³

Due to the above Resolution, Director Jocelyn Patrice L. Deco, Director II of the CSC Field Office-National Museum, sent a letter dated October 14, 2010 to Director Jeremy Barns, Director IV of the National Museum, forwarding the invalidated permanent appointment of petitioner as Director III contained in CSC Resolution No. 10-1438 dated July 27, 2010.⁴

³ *Id.* at 107-109.

⁴ *Id.* at 103.



On October 21, 2010, Director Jeremy Barns wrote the CSC asking for a clarification and reconsideration of the October 14, 2010 letter. The CSC replied in a letter dated June 27, 2011 declaring that its resolution is final and executory because the proper party – the appointing authority or the appointee, the petitioner, in this case, failed to appeal the resolution as provided by the CSC Rules. According to the CSC, the records showed that the National Museum duly received the October 14, 2010 letter, copy of which was furnished the petitioner and the appeal from CSC Resolution No. 10-1438 should have been made on or before October 29, 2010.⁵

On August 2, 2011, petitioner moved for the reconsideration of the June 27, 2010 letter. He claimed that he received the letter dated June 27, 2010 on July 18, 2011, and it was the first time that he learned of the matter regarding his appointment. He also argued that his appointment was procedurally sound.⁶

The National Museum then posted a bulletin of vacant positions, including that of petitioner's, on August 12, 2011. Petitioner, thereafter, wrote a letter to the National Museum clarifying that a motion for reconsideration had been filed before the CSC and it was pending resolution and as such, his position cannot be considered as vacant.⁷

On October 12, 2011, petitioner received a copy of the CSC's letter dated September 26, 2011 denying his motion, thus:

Please be informed that said letter to Director Barns is not the main action recalling and invalidating your appointment as Director III but a mere clarification on the effects thereof, hence, it is not the proper subject of a motion for reconsideration or appeal.

x x x x

Moreover, records of this Office clearly show that the invalidation of said appointments was duly received by the National Museum on October 14, 2010 and you were furnished a copy thereof. x x x

Thus, your claim that you did not receive any information relative to the recall and invalidation of your appointments has no basis.⁸

Petitioner then elevated the case to the CA through a petition for *certiorari* under Rule 65 of the Rules of Court alleging that the CSC gravely abused its discretion when it sent its letter-responses dated June 27, 2011 and September 26, 2011 to the National Museum. On August 7, 2013, the

⁵ *Id.* 37-38.

⁶ *Id.* at 38-40.

⁷ *Id.* at 40.

⁸ *Id.* at 41.



CA denied the petition and ruled that CSC Resolution No. 10-1438 invalidating petitioner's appointment stands, thus:

WHEREFORE, the petition is **DENIED**. CSC Resolution No. 10-1438 invalidating petitioner's appointment **STANDS**.

SO ORDERED.⁹

The CA ruled that the assailed orders of the CSC are only letter-responses and not the orders contemplated by the Rules which can be assailed in a petition for *certiorari*. According to the CA, petitioner should have sought reconsideration of CSC Resolution No. 10-1438 which invalidated his appointment and which was communicated to the National Museum, copy furnished the petitioner, on October 14, 2010; and an appeal should have been filed instead of a letter of clarification and reconsideration.

Hence, the present petition with the following issues presented:

I.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED SERIOUS AND GRAVE ERROR IN DECLARING THAT THE REMEDY OF *CERTIORARI* UNDER RULE 65 WAS NOT THE PROPER REMEDY UNDER THE CIRCUMSTANCES

II.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS AND GRAVE ERROR IN RULING THAT THE RESPONDENT CIVIL SERVICE COMMISSION DID NOT COMMIT GRAVE ABUSE OF DISCRETION¹⁰

Citing *National Development Company v. The Collector of Customs*,¹¹ petitioner argues that even letter-responses can be subjects of a petition for *certiorari* if acted with grave abuse of discretion. Petitioner further asserts that he was appointed by the proper appointing authority or the National Museum Board of Trustees, based on the Minutes of the special meeting of the same Board held on October 21, 2008.

In their Comment dated February 11, 2014, the respondents, as represented by the Office of the Solicitor General (*OSG*), insist that the CA correctly ruled that the communications between the National Museum and the CSC are not the proper subjects of a petition for *certiorari*. The *OSG* also argues that petitioner's appointment was not issued by the proper

⁹ *Id.* at 47.

¹⁰ *Id.* at 16.

¹¹ 118 Phil. 1265, 1269 (1963).

appointing authority because the resolution of the National Museum Board of Trustees takes precedence over the minutes of the board meeting.

On January 21, 2015, this Court dismissed the present petition for failure of petitioner to obey a lawful order of the Court pursuant to Section 5(e), Rule 56 of the 1997 Rules of Civil Procedure. However, upon Motion for Reconsideration¹² of petitioner, this Court set aside its earlier resolution and reinstated the petition on June 22, 2015.¹³

After a careful review of the arguments presented, this Court finds the petition unmeritorious.

As a general rule, only questions of law raised *via* a petition for review under Rule 45 of the Rules of Court¹⁴ are reviewable by this Court.¹⁵ Factual findings of administrative or quasi-judicial bodies, including labor tribunals, are accorded much respect by this Court as they are specialized to rule on matters falling within their jurisdiction especially when these are supported by substantial evidence.¹⁶ However, a relaxation of this rule is made permissible by this Court whenever any of the following circumstances is present:

1. [W]hen the findings are grounded entirely on speculations, surmises or conjectures;
2. when the inference made is manifestly mistaken, absurd or impossible;
3. when there is grave abuse of discretion;
4. when the judgment is based on a misapprehension of facts;
5. when the findings of fact are conflicting;
6. when in making its findings[,] the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
7. when the findings are contrary to that of the trial court;
8. when the findings are conclusions without citation of specific evidence on which they are based;
9. when the facts set forth in the petition[,] as well as in the petitioner's main and reply briefs[,] are not disputed by the respondent;
10. when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; [and]

¹² *Rollo*, pp. 127-136.

¹³ *Id.* at 137.

¹⁴ Sec. 1, Rule 45, Rules of Court provides:

Filing of petition with Supreme Court. – A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

¹⁵ *Heirs of Pacencia Racaza v. Spouses Abay-Abay*, 687 Phil. 584, 590 (2012).

¹⁶ *Merck Sharp and Dohme (Phils.), et al. v. Robles, et al.*, 620 Phil. 505, 512 (2009).

11. when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.¹⁷

The question as to whether the assailed orders of the CSC are mere letter-responses or the orders contemplated by the Rules that can be assailed in a petition for *certiorari* under Rule 65 is factual and is not within the ambit of a petition under Rule 45. Nevertheless, even if this Court relaxes such procedural infirmity, the present petition must still fail.

Section 1, Rule 65 of the Rules of Court reads:

Section 1. *Petition for Certiorari.* When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the **judgment, order or resolution** subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

According to petitioner, a letter-response can be the subject of a petition for *certiorari* as already ruled by this Court in *National Development Company v. Collector of Customs* wherein a letter-response for the Collector of Customs was struck down for having been committed with grave abuse of discretion. However, as correctly observed by the OSG, the case cited by petitioner is misapplied. In *National Development Company v. Collector of Customs*, the subject letter was, in fact, a resolution or decision that found therein petitioners guilty of a violation of the Tariff and Customs Code, while in the present petition, the letter-responses of the CSC did not decide the issue on the validity or invalidity of petitioner's appointment. Thus, as aptly observed by the OSG:

35. In the NDC case, the letter issued by the Collector of Customs, in fact, constituted a resolution or decision finding a violation apparently committed by the petitioner therein under Section 2521 of the Tariff and Customs Code, thereby imposing a fine of ₱5,000.00. Said resolution was issued without giving the owner or operator a chance to controvert the alleged violation. Hence, the resolution was deemed to have been issued in deprivation of therein petitioner's right to due process.

¹⁷ *Co v. Vargas*, 676 Phil. 463, 471 (2011).



36. In the instant case, the June 27, 2011 communication of the CSC addressed to NM **merely answered the clarifications requested by NM Director IV Jeremy Barns in a letter dated October 21, 2011, regarding the invalidation of petitioner's appointment.** The same can also be said of the September 26, 2011 letter of the CSC to petitioner, addressing the latter's Motion for Reconsideration in a letter dated August 1, 2011. **The June 27, 2011 and September 26, 2011 CSC letters did not decide the issue pertaining to the validity or the invalidity of petitioner's appointment which, precisely, was the subject of CSC Resolution No. 10-1438. The letter merely stated the procedural rules ought to be followed by parties who wish to appeal decisions of the CSC, which procedure, both the appointing authority, the NM BOT, and petitioner, failed to avail of within the reglementary period.**¹⁸

It is, therefore, CSC Resolution No. 10-1438 that should have been the subject of an appeal as it contained the decision of the said Commission as to the invalidity of petitioner's appointment as Director III of the National Museum. On point is the finding of the CA, thus:

We perused the assailed orders and find that they are only letter-responses of the CSC and not the orders contemplated by the Rules which can be assailed in a petition on certiorari. As aptly explained by the CSC, petitioner should have sought reconsideration of CSC Resolution No. 10-1438 which invalidated his appointment and which was communicated to the National Museum, copy furnished the petitioner, on October 14, 2010; and an appeal should have been filed instead of a letter seeking clarification and reconsideration as was done by Director Barns on October 21, 2010. Since what was filed is a letter of clarification and reconsideration, it was acted upon in the same manner by the CSC in its letter-reply dated June 27, 2011, explaining that the recall and invalidation of petitioner's appointment can only be reconsidered through an appeal to the CSC, by the appointing authority or the appointee, within fifteen days from receipt of the decision, pursuant to CSC Memorandum Circular 20, s. 1998 as held in *Francisco Abella, Jr. v. CSC*; the CSC claimed that per records, the notice was properly served and received by the addressees such that the period to appeal had already prescribed. It is this letter-reply that petitioner filed a reconsideration on, claiming that he did not receive notice of the invalidation of his appointment. However, petitioner's denial is belied by the statement in his Petition, properly pointed out by the CSC, that:

On 21 October 2010, Dir. Barns wrote Dir. Deco of the CSC Field Office requesting clarification and reconsideration of the invalidation by the CSC of the said appointment. It is stressed that Dir. Barns did not officially inform herein petitioner of said invalidation, and seemingly Dir. Barns took it upon himself to "handle" the said matter of invalidation. In fact, Director Barns verbally explained to petitioner that he (Barns) will take care of the whole

¹⁸ *Rollo*, pp. 20-21. (Emphasis in the original)

thing and will not let anything happen to petitioner's position as long as he was the NM director.¹⁹

Thus, this is a classic case of resorting to the filing of a petition for *certiorari* when the remedy of an ordinary appeal can no longer be availed of. Jurisprudence is replete with the pronouncement that where appeal is available to the aggrieved party, the special civil action of *certiorari* will not be entertained – remedies of appeal and *certiorari* are mutually exclusive, not alternative or successive.²⁰ The proper remedy to obtain a reversal of judgment on the merits, final order or resolution is appeal. This holds true even if the error ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision, order or resolution. The existence and availability of the right of appeal prohibits the resort to *certiorari* because one of the requirements for the latter remedy is the unavailability of appeal.²¹ Clearly, petitioner should have moved for the reconsideration of CSC Resolution No. 10-1438 containing the Commission's resolution as to the invalidity of his appointment and, thereafter, should have filed an appeal. Sadly, failing to do so, petitioner utilized the special civil action of *certiorari*. And to make matters worse, petitioner questioned, not the proper resolution of the CSC, but the mere letter-responses of the same Commission.

Notwithstanding the above disquisitions, petitioner's claim that his appointment is valid because he was in fact appointed by the Board and not the Chairman as shown in the Minutes of the meeting still does not gain him any merit. In order for the Court to refer to the minutes of a meeting or a proceeding, the subject Board resolution must at least be ambiguous or obscure; otherwise, if it is clear on its face, there is no need to resort to such action because a Board resolution takes precedence over the minutes of a meeting.²² As correctly ruled by the CA:

Petitioner argues that the CSC erred when it held that his appointment was invalid because it was made by the wrong appointing authority; although it would appear that the Resolution on his appointment of the National Museum shows that he was appointed by the Chairman and not the Board, the Minutes of the meeting regarding the matter shows otherwise; and, because of the ambiguity of the resolutions, resort to the Minutes is indispensable. We reviewed the pertinent resolutions and find no ambiguity or obscurity on its face; hence, there is no need to resort to

¹⁹ *Id.* at 44-45.

²⁰ *PAGCOR v. CA, et al.*, 678 Phil. 513, 524 (2011), citing *Catindig v. Vda. de Meneses*, 656 Phil. 361, 375 (2011).

²¹ *Spouses Dycoco v. CA, et al.*, 715 Phil. 550, 561 (2013), citing *Bugarin v. Palisoc*, 513 Phil. 59, 66 (2005).

²² See *People v. Dumlao*, 599 Phil. 565 (2009).



the Minutes, for a board resolution takes precedence over the minutes of the meeting.²³

The same reasoning is also aptly asserted by the OSG, thus:

x x x x

75. Petitioner argues that resort to the Minutes of the meeting is necessary in the presence of vagueness and confusion regarding the provisions of the Resolutions. If such is the case, then no resort to the minutes is necessary because Board Resolution Nos. 02-2008 and 03-2008 issued by the BOT are from being ambiguous.

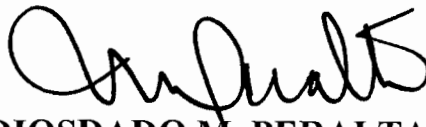
76. In both resolutions, the Chairman was categorically deemed as the appointing authority and not the BOT. This grant of authority is in violation of the clear provisions of R.A. No. 8492, particularly Section 11 thereof, which states:

Section 11. *Director of the National Museum; duties; programs and studies; annual report to Congress.* – The Board of Trustees shall appoint the Director of the Museum and two (2) Assistant Directors. The Director shall be in charge of the over-all operations of the Museum and implement the policies set by the Board of Trustees and programs approved by it. The Director shall have a proven track record of competent administration and shall be knowledgeable about Museum management.²⁴

Anent petitioner's Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction, such is no longer necessary due to the above resolution and discussion of this Court.

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 With Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction dated September 18, 2013 of petitioner Maharlika A. Cuevas is **DENIED** for lack of merit. Consequently, the Decision dated August 7, 2013 of the Court Appeals is **AFFIRMED**.

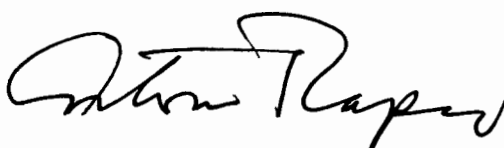
SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

²³ *Rollo*, pp. 46-47.

²⁴ *Id.* at 97.


WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



JOSE CATRAL MENDOZA
Associate Justice



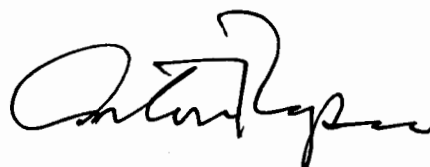
ESTELA M. PERLAS-BERNABE
Associate Justice



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, Second 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.



MARIA LOURDES P. A. SERENO
Chief Justice

