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**G.R. No. 176162** (*Civil Service Commission v. Court of Appeals, Dr. Dante G. Guevarra and Atty. Augustus F. Cezar*)

**G.R. No. 178845** (*Atty. Honesto L. Cueva v. Court of Appeals, Dr. Dante G. Guevarra and Atty. Augustus F. Cezar*)

Promulgated:

OCTOBER 09, 2012 *Arise*

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## DISSENTING OPINION

**VELASCO, JR., J.:**

Where the law is clear and unambiguous, it must be taken to mean exactly what it says and the Court has no choice but to see to it that its mandate is obeyed.<sup>1</sup>

### The Case

For consideration before the Court are consolidated petitions for review on *certiorari* assailing the December 29, 2006 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 95293, nullifying and setting aside the resolutions of the Civil Service Commission (CSC) on jurisdictional ground.

### The Facts

On September 27, 2005, petitioner Honesto L. Cueva (Cueva), then Chief Legal Counsel of the Polytechnic University of the Philippines (PUP), filed an administrative complaint with the CSC against respondents Dante G. Guevarra (Guevarra) and Augustus F. Cezar (Cezar), who were the Officer-in-Charge/President and the Vice-President for Administration,

<sup>1</sup> *Abello v. Commissioner of Internal Revenue*, G.R. No. 120721, February 23, 2005, 452 SCRA 162; citations omitted.

<sup>2</sup> *Rollo* (G.R. No. 176162), pp. 57-72.

respectively, of the PUP. The charge was for gross dishonesty, grave misconduct, falsification of official documents, conduct prejudicial to the best interest of the service, notorious undesirability and violation of Section 4 of Republic Act (R.A.) No. 6713.<sup>3</sup>

According to Cueva, Guevarra falsified General Form No. 58-A (Application for Bond of Accountable Officials and Employees of the Republic of the Philippines), a public document, which he was required to accomplish as the head of PUP in order to be bonded and consequently engage in financial transactions on said institution's behalf.<sup>4</sup> Guevarra allegedly committed falsification when he wrote on the application that he has no pending criminal and administrative cases when both respondents at that time have seventeen (17) pending cases for violation of Sec. 3(e) of R.A. No. 3019 before the Sandiganbayan.<sup>5</sup> Guevarra also claimed that Cezar, notwithstanding his knowledge of these existing cases against them, still endorsed and recommended for approval said application.<sup>6</sup>

On their part, respondents clarified that it was their understanding that the phrase "criminal or administrative records" pertain to final conviction in a criminal administrative case. They add that, inasmuch as the adverted seventeen (17) cases had not yet been decided by the Sandiganbayan, Guevarra's negative answer to Question No. 11 in General Form No. 58-A which states, "Do you have any criminal or administrative records?" was correct.<sup>7</sup>

After a *prima facie* finding that respondents committed acts punishable under the Civil Service Law and Rules, the CSC, on March 24, 2006, issued Resolution No. 060521<sup>8</sup> formally charging Guevarra with

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<sup>3</sup> Id. at 97.

<sup>4</sup> Id. at 197.

<sup>5</sup> Id. at 98, 197 and 233.

<sup>6</sup> Id. at 197.

<sup>7</sup> Id. at 107.

<sup>8</sup> Id. at 196-199.

Dishonesty and Cezar with Conduct Prejudicial to the Best Interest of the Service.

Thereafter, respondents filed their Motion for Reconsideration and Motion to Declare Absence of *Prima Facie* Case,<sup>9</sup> therein praying, among other things, that the case be immediately suspended. Cueva, on the other hand, interposed an Urgent *Ex-Parte* Motion for the Issuance of Preventive Suspension,<sup>10</sup> as well as an Omnibus Motion,<sup>11</sup> praying that an order of preventive suspension against respondents issue and the inclusion of the certain offenses in the formal charge against the two, particularly: grave misconduct, falsification of official document, conduct prejudicial to the best interest of the service, being notoriously undesirable, and violation of Sec. 4 of R.A. No. 6713.

By Resolution No. 061141 dated June 30, 2006, the CSC denied both respondents' motion for reconsideration and Cueva's motion to include additional charges against respondents.<sup>12</sup> Nonetheless, the CSC placed Guevarra under preventive suspension for ninety (90) days.

Therefrom, respondents went to the CA on a petition for certiorari and prohibition questioning the jurisdiction of the CSC over the administrative complaint filed against them. On December 29, 2006, the CA rendered a Decision granting the petition and nullifying the resolution issued by the CSC for lack of jurisdiction.

Aggrieved, petitioners have filed the instant separate petitions.

### Issue

WHETHER THE CIVIL SERVICE COMMISSION HAS ORIGINAL CONCURRENT JURISDICTION OVER ADMINISTRATIVE CASES FALLING UNDER THE JURISDICTION OF HEADS OF AGENCIES.

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<sup>9</sup> Id. at 106-120.

<sup>10</sup> Id. at 146-148.

<sup>11</sup> Id. at 155-162.

<sup>12</sup> Id. at 200-212.

## Discussion

The petitions are bereft of merit.

### Jurisdiction as conferred by law

It is a basic legal precept that “[j]urisdiction over the subject matter of a case is conferred by law.”<sup>13</sup> In the instant case, the pertinent legal provision is Section 47, Chapter 7, Subtitle A, Title I, Book V of Executive Order No. 292 (otherwise known as the “Administrative Code”), which reads:

Sec. 47. Disciplinary Jurisdiction. — (1) **The Commission** shall decide **upon appeal** all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days’ salary, demotion in rank or salary or transfer, removal or dismissal from office. A complaint may be filed **directly** with the Commission by a private citizen against a government official or employee in which case it may hear and decide the case or it may deputize any department or agency or official or group of officials to conduct the investigation. The results of the investigation shall be submitted to the Commission with recommendation as to the penalty to be imposed or other action to be taken.

(2) **The Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities** shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. Their decisions shall be **final** in case the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days’, salary. **In case the decision rendered by a bureau or office head is appealable to the Commission,** the same may be initially appealed to the department and finally to the Commission and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned. (Emphasis supplied.)

Based on the first paragraph of the above-quoted provision of the Administrative Code, it is clear that, as a general rule, the CSC shall have **appellate jurisdiction** over “all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days’ salary, demotion in rank or salary or transfer, removal or dismissal from office.” This jurisdictional grant

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<sup>13</sup> *City of Dumaguete v. Philippine Ports Authority*, G.R. No. 168973, August 24, 2011.

complements the second paragraph of the same provision which vests upon the department secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities the **original jurisdiction** to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. Concomitantly, the law even accords finality to their decisions “in case the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days’ salary.”

By way of exception, the same provision allows a complaint to be “filed **directly** with the Commission **by a private citizen** against a government official or employee in which case it may hear and decide the case or it may deputize any department or agency or official or group of officials to conduct the investigation.” Evidently, the law sanctions the direct filing of a complaint with the CSC, but only if a private citizen is the complainant. Thus, the CSC has concurrent jurisdiction with the department secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities when the complaint is filed by a private citizen.

In this case, Cueva, then Chief Legal Counsel of the PUP, filed the administrative complaint directly with the CSC against respondents. Applying the abovementioned provision of the Administrative Code, since a public employee and not a private citizen filed the complaint, the case falls under the original jurisdiction of the disciplining authority involved, which is the Board of Regents (BOR) of the PUP.<sup>14</sup> The CSC merely has appellate jurisdiction. As stated under Section 4(h) of R.A. No. 8292, otherwise known as the “Higher Education Modernization Act of 1997”:

Section 4. *Powers and duties of Governing Boards.* – The governing board<sup>15</sup> shall have the following specific powers and duties in addition to its general powers of administration and the exercise of all the powers granted to the board of directors of a corporation under Section 36

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<sup>14</sup> Section 4(h) of Republic Act. No. 8292 or the Higher Education Modernization Act of 1997.

<sup>15</sup> Under Section 3(a) of R.A. No. 8292, “[t]he governing body of state universities and colleges is hereby in the Board of Regents for universities and in the Board of Trustees for Colleges x x x.”

of Batas Pambansa Blg. 68 otherwise known as the Corporation Code of the Philippines:

x x x x

(h) x x x and **to remove [faculty members and administrative officials and employees] for cause in accordance with the requirements of due process of law.** (Emphasis supplied.)

Admittedly, the Revised Uniform Rules on Administrative Cases in the Civil Service<sup>16</sup> (Civil Service Rules) is silent as to who can file a complaint directly with the CSC. The pertinent provision of the Civil Service Rules provides:

Sec. 4. Jurisdiction of the Civil Service Commission. -- The Civil Service Commission shall hear and decide administrative cases instituted by, or brought before it, **directly or on appeal**, including contested appointments, and shall review decisions and actions of its offices and of agencies attached to it.

Except as otherwise provided by the Constitution or by law, the Civil Service Commission shall have the **final authority** to pass upon the removal, separation and suspension of all officers and employees in the civil service and upon all matters relating to the conduct, discipline and efficiency of such officers and employees. (Emphasis supplied.)

It is basic that a rule issued by a government agency pursuant to its quasi-legislative power cannot modify, reduce or enlarge the scope of the law which it seeks to implement. The discourse made by the Court in *Lokin, Jr. v. Commission on Elections* is instructive:

The authority to make IRRs in order to carry out an express legislative purpose, or to effect the operation and enforcement of a law is not a power exclusively legislative in character, but is rather administrative in nature. **The rules and regulations adopted and promulgated must not, however, subvert or be contrary to existing statutes.** The function of promulgating IRRs may be legitimately exercised **only for the purpose of carrying out the provisions of a law.** The power of administrative agencies is confined to implementing the law or putting it into effect. **Corollary to this is that administrative regulation cannot extend the law and amend a legislative enactment. It is axiomatic that the clear letter of the law is controlling and cannot be amended by a mere administrative rule issued for its implementation.** Indeed, administrative or executive acts shall be valid

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<sup>16</sup> Promulgated by the Civil Service Commission through Resolution No. 99-1936 dated August 31, 1999 and implemented by CSC Memorandum Circular No. 19, Series of 1999.

only when they are not contrary to the laws or the Constitution.<sup>17</sup>  
(Emphasis supplied.)

Moreover, in *Padunan v. Department of Agrarian Reform Adjudication Board*,<sup>18</sup> this Court held:

It must be stated at the outset that **it is the law that confers jurisdiction and not the rules.** Jurisdiction over a subject matter is conferred by the Constitution or the law and rules of procedure yield to substantive law. Otherwise stated, jurisdiction must exist as a matter of law. (Emphasis supplied.)

Taking the foregoing into consideration, Sec. 4 of the Civil Service Rules cannot be construed as authorizing one other than a private citizen to file a complaint directly with the CSC, contrary to the ruling in the *ponencia*. Pertinently, even Sec. 7 of the Civil Service Rules cannot run counter to the clear provision of the Administrative Code. Sec. 7 of the Civil Service Rules reads:

Section. 7. Jurisdiction of Heads of Agencies. – Heads of Departments, agencies, provinces, cities, municipalities and other instrumentalities shall have **original concurrent jurisdiction**, *with the Commission*, over their respective officers and employees. (Emphasis supplied.)

In this regard, “original concurrent jurisdiction” means that the CSC and the BOR have *original concurrent jurisdiction* over complaints filed by a *private citizen* against a member of the civil service, but the BOR has *original and exclusive jurisdiction* over complaints filed by a *member of the civil service* against an officer or employee of the university. A contrary interpretation violates the explicit provision of the Administrative Code, as this is clearly covered by Sec. 47 of the said Code.

Be that as it may, and considering that the Civil Service Rules does not explicitly mention who can file a complaint directly with the CSC, then

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<sup>17</sup> G.R. Nos. 179431-32, June 22, 2010, 621 SCRA 385; citing *Metropolitan Bank and Trust Company, Inc. v. National Wages and Productivity Commission*, G.R. No. 144322, February 6, 2007, 514 SCRA 346, 349-350.

<sup>18</sup> G.R. No. 132163, January 28, 2003, 396 SCRA 196.

the clear import of Sec. 47 of the Administrative Code<sup>19</sup> should be controlling, that is, only private citizens can file administrative complaints directly with the CSC.

### **Power to discipline administrative officials and employees**

Indeed, government employees, in general, being members of the civil service, are under the jurisdiction of the CSC. Thus, CSC's power to discipline erring government employees cannot be doubted. As this Court held in *Garcia v. Molina*:

The civil service encompasses all branches and agencies of the Government, including government-owned or controlled corporations (GOCCs) with original charters, like the GSIS, or those created by special law. As such, the employees are part of the civil service system and are subject to the law and to the circulars, rules and regulations issued by the CSC on discipline, attendance and general terms and conditions of employment. **The CSC has jurisdiction to hear and decide disciplinary cases against erring employees.**<sup>20</sup> (Emphasis supplied; citations omitted.)

Nonetheless, CSC's jurisdiction to hear and decide disciplinary cases against erring government officials is not without limitation. As discussed above, the Administrative Code vests the CSC appellate jurisdiction over "all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days' salary, demotion in rank or salary or transfer, removal or dismissal from office." Original jurisdiction is vested upon the department secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. In *University of the Philippines v. Regino*,<sup>21</sup> this Court held:

**The Civil Service Law (PD 807) expressly vests in the Commission appellate jurisdiction in administrative disciplinary cases involving members of the Civil Service.** Section 9(j) mandates that the Commission shall have the power to "hear and decide administrative disciplinary cases instituted directly with it in accordance with Section 37 or brought to it on appeal." And Section 37(a), provides that, "The

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<sup>19</sup> Section 47, Chapter 7, Subtitle A, Title I, Book V of the Administrative Code.

<sup>20</sup> G.R. Nos. 157383 & 174137, August 10, 2010, 627 SCRA 540.

<sup>21</sup> G.R. No. 88167, May 3, 1993, 221 SCRA 598.



Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty (30) days, or fine in an amount exceeding thirty days' salary, demotion in rank or salary or transfer, removal or dismissal from office.”

Under the 1972 Constitution, all government-owned or controlled corporations, regardless of the manner of their creation, were considered part of the Civil Service. Under the 1987 Constitution only government-owned or controlled corporations with original charters fall within the scope of the Civil Service pursuant to Article IX-B, Section 2(1), which states:

The Civil Service embraces all branches, subdivisions, instrumentalities, and agencies of the government, including government-owned or controlled corporations with original charters.

As a mere government-owned or controlled corporation, UP was clearly a part of the Civil Service under the 1973 Constitution and now continues to be so because it was created by a special law and has an original charter. **As a component of the Civil Service, UP is therefore governed by PD 807 and administrative cases involving the discipline of its employees come under the appellate jurisdiction of the Civil Service Commission.** (Emphasis supplied.)

Even if *Regino* involves the application of Presidential Decree No. 807<sup>22</sup> (PD 807), still, the doctrine enunciated therein is still applicable as the provision on the disciplinary jurisdiction of the CSC under PD 807 is retained almost verbatim in the Administrative Code.

Such interpretation renders effectual the provisions of R.A. No. 8292, which vests the governing boards of the universities and colleges with the power to discipline their erring administrative officials and employees. Specifically, aside from its general powers of administration, the BOR as a governing board is granted with the specific power to appoint vice presidents, deans, directors, heads of departments, faculty members and other officials and employees.<sup>23</sup> Consistent with its power to hire or appoint is the power to discipline its officials and personnel. Moreover, as mentioned above, R.A. No. 8292 also grants the BOR the power to remove its officials and employees for cause in accordance with the requirements of due process

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<sup>22</sup> The Civil Service Law.

<sup>23</sup> Sec. 4(g) of R.A. No. 8292.

of law.<sup>24</sup> Clearly, the power of the BOR to discipline university officials and employees cannot be denied.

Concomitantly, a ruling that CSC's jurisdiction to hear and decide disciplinary cases against erring government officials without limitation will inevitably deprive the BOR of the power to discipline its own officials and employees and render inutile the legal provisions on disciplinary measures which may be taken by it.

More importantly, if all the complaints filed by a civil service member against another government employee come under the concurrent jurisdiction of the CSC, then the day will come when the CSC will be swamped with all kinds of cases, including those where the penalty involved is suspension not exceeding 30 days or fine not exceeding 30 days' salary.

### **Cases cited**

The *ponencia* cited several cases to support its ruling on the CSC's original jurisdiction to take cognizance of a complaint directly filed before it by a government employee or official.

The first is *Camacho v. Gloria*,<sup>25</sup> which, as viewed in the *ponencia*, did not limit CSC's authority to exclude complaints filed directly with it by a member of the civil service. On such point, it is worth mentioning that there is no need for the Court to limit CSC's authority in said case because the facts therein do not call for such delineation. As a matter of fact, petitioner therein contends that "the Board of Regents has no jurisdiction over his case considering that as a teacher, original jurisdiction over the administrative case against him is vested with a committee whose composition must be in accordance with [R.A.] No. 4670, the *Magna Carta for Public School Teachers*." Evidently, there was no issue on CSC's jurisdiction to take cognizance of a complaint directly filed before it by a

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<sup>24</sup> Sec. 4(h) of R.A. No. 8292.

<sup>25</sup> G.R. No. 138862, August 15, 2003, 409 SCRA 174.

member of the civil service. Moreover, it is not the Court which may limit CSC's authority to acquire original jurisdiction over administrative complaints filed by a member of the civil service. Rather, it is the law which may make such limitation, and in this particular case, it is the clear provision of the Administrative Code.

The second is *Civil Service Commission v. Alfonso*,<sup>26</sup> which I submit does not also apply to the case at bar. The significant difference between the instant case and *Alfonso* lies in the fact that respondent therein submitted himself to the jurisdiction of the CSC when he filed his counter-affidavit before it. Significantly, respondent therein questioned CSC's jurisdiction over the complaint filed against him only when his motion for reconsideration was denied. Thus, he was already estopped from questioning the jurisdiction of the CSC. Such circumstance is totally absent in the instant case. Clearly, *Alfonso* is not, and should not be, a precedent to the case at bar. Moreover, *Alfonso* is a stray decision which runs counter to the clear provision of Sec. 47 of the Administrative Code.

The third, *Civil Service Commission v. Sojor*,<sup>27</sup> is also not binding in the instant case. As it were, the issue concerning the distinction between a complaint filed by a private citizen and one filed by a government employee was not taken into consideration in *Sojor*.

Finally, *Hilario v. Civil Service Commission*<sup>28</sup> is also not squarely in point. For one, at the time the administrative complaint was filed against petitioner therein before the CSC, he was already considered resigned by then Quezon City (QC) Mayor Ismael A. Mathay, Jr. (Mayor Mathay) almost about a year ago. Therefore, if then QC Vice-Mayor Charito L. Planas would still file the case against petitioner before the Office of the Mayor, this would just evidently be an exercise in futility. And for another, considering the fact that petitioner was already considered resigned by

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<sup>26</sup> G.R. No. 179452, June 11, 2009, 589 SCRA 88.

<sup>27</sup> G.R. No. 168766, May 22, 2008, 554 SCRA 160.

<sup>28</sup> G.R. No. 116041, March 31, 1995, 243 SCRA 206.

Mayor Mathay, it would be absurd if the latter would still be required to take cognizance of an administrative complaint filed against him, who is, for all intents and purposes, already separated from employment.


### **Laws harmonized and rendered effectual**

To the *ponencia*, Sec. 4(h) of R.A. No. 8292 (power of the governing board of universities and colleges to remove their administrative officials and employees for cause in accordance with the requirements of due process of law) “does not indicate any intention to remove employees and officials of state universities and colleges from the ambit of the CSC.” This is true, to a point.

In this regard, it bears stressing that with my submission that only a private citizen can file a complaint directly with the CSC, the latter is not deprived of its jurisdiction over administrative cases filed by a member of the civil service against other erring government employees. In such case, the CSC retains the power of review over the decisions of the governing boards of the colleges or universities when these decisions are brought before it, on appeal, pursuant to Sec. 47 of the Administrative Code. At the same time, with such interpretation, these governing boards are not unduly deprived of the power to discipline their own officials and employees under R.A. No. 8292 and the Administrative Code. This way, not only are laws harmonized with each other, all of them are also rendered effectual and operative.

In view of the foregoing, I submit that the CSC does not have original jurisdiction to take cognizance of the complaint directly filed before it by Cueva, then PUP legal counsel. Only a private citizen can directly file a complaint with the CSC and no other.

Accordingly, I vote to deny the petitions and affirm the appealed December 29, 2006 Decision of the Court of Appeals.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice