Republic of the Philippines
Supreme Court
Manila

EN BANC

CARLITO C. ENCINAS,
Petitioner,

- versus -

PO1 ALFREDO P. AGUSTIN, JR., and PO1 JOEL S. CAUBANG,**
Respondents.

G.R. No. 187317

Present:

SERENO, *CJ*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,*
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,* and
LEONEN, *JJ.*

Promulgated:

April 11, 2013

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DECISION

SERENO, *CJ:*

This is a Rule 45 Petition for Review on Certiorari assailing the Decision dated 20 November 2008[1] and Resolution dated 30 March 2009[2] issued by the Court of Appeals (CA). Affirming the findings of the Civil Service Commission (CSC), the CA found petitioner Carlito C. Encinas

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* No part.
** Should be designated as Fire Officer (FO)1 Alfredo P. Agustin and FO1 Joel S. Caubang.
[1] *Rollo*, pp. 24-35In the case entitled "Carlito C. Encinas v. FO1 Alfredo P. Agustin and FO1 Joel S. Caubang," docketed as CA-G.R. SP No. 104074.
[2] Id. at 37.

(petitioner) administratively liable for grave misconduct and conduct prejudicial to the best interest of service- offenses proscribed by Section 46(b)(4) and (27), Book V of Executive Order No. 292, or the Administrative Code of 1987 - and affirmed his dismissal.

The relevant facts are summarized as follows:

Respondents were then both holding positions as Fire Officer I in Nueva Ecija. They claim that on 11 March 2000, at around 9:00 p.m., petitioner – who was then Provincial Fire Marshall of Nueva Ecija – informed them that unless they gave him five thousand pesos (₱5,000), they would be relieved from their station at Cabanatuan City and transferred to far-flung areas. Respondent Alfredo P. Agustin (Agustin) would supposedly be transferred to the Cuyapo Fire Station (Cuyapo), and respondent Joel S. Caubang (Caubang) to Talugtug Fire Station (Talugtug). Fearing the reassignment, they decided to pay petitioner. On 15 March 2000, in the house of a certain "Myrna," respondents came up short and managed to give only two thousand pesos (₱2,000), prompting petitioner to direct them to come up with the balance within a week. When they failed to deliver the balance, petitioner issued instructions effectively reassigning respondents Agustin and Caubang to Cuyapo and Talugtug, respectively.[3]

Based on the above-narrated circumstances, respondents filed with the Bureau of Fire Protection (BFP) a letter-complaint (BFP Complaint) on 27 March 2000 for illegal transfer of personnel under Republic Act (R.A.) No. 6975 or the Department of Interior and Local Government (DILG) Act of 1990.[4] The record is not clear as to why this Complaint was later docketed by the BFP for preliminary investigation for violation of R.A. No. 3019 or the Anti-Graft and Corrupt Practices Act.[5] The BFP Complaint provides in pertinent part:

> Chief Inspector Carlito C. Encinas relieved us from our present assignment and transferred us to different far places without any cause and due process of law based from the BFP Manual (Republic Act 6975)
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> The reason why he relieved us was due to our failure to give the money he was asking from both of us in the amount of Five Thousand Pesos (₱5,000) in exchange for our present assignment to be retained. x x x.

On 12 April and 25 April 2000, on the basis of similar facts, respondents likewise filed with the CSC Regional Office in San Fernando, Pampanga (CSCRO), as well as with the CSC Field Office in Cabanatuan City,[6] their Joint Affidavit/Complaint (CSCRO Complaint).[7] This time, they

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[3] Id. at 39-40.
[4] CA rollo, pp. 79-81.
[5] Resolution dated 05 July 2005; Id. at 82.
[6] Id. at 28.
[7] *Rollo*, pp. 38-40.

accused petitioner of violation of Section 4(c) of R.A. No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees. The relevant portion of the CSCRO Complaint provides:

> 6. That we executed this affidavit to file a complaint against C. Insp. Carlito C. Encinas BFP for violation of Section 4 (C) R.A. 6713, that is "Justness and sincerity. - Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest."

The CSCRO Complaint erroneously pertained to the above-quoted provision as Section 4(c), but it should be denoted as Section 4(A)(c).

On 27 October 2000, after a fact-finding investigation was conducted in connection with his alleged extortion activities, petitioner was formally charged with dishonesty, grave misconduct, and conduct prejudicial to the best interest of service. He was required to file an answer within five (5) days from notice.[8] The Formal Charge specifically reads in part:

> WHEREFORE, Carlito C. Encinas is hereby formally charged with the offenses of Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service. Accordingly, he is given five (5) days from receipt hereof to submit to this Office a written answer under oath, together with the affidavits of his witnesses and documentary evidence, if any, and a statement whether or not he elects a formal investigation. He is advised of his right to the assistance of his counsel of his own choice.[9]

Although it was not specifically mentioned in the records, the offenses of dishonesty, grave misconduct, and conduct prejudicial to the best interest of service can be found in Section 46(b)(1), (4) and (27), Book V, respectively, of the Administrative Code of 1987.[10] The record does not indicate whether petitioner was formally charged with violation of R.A. No. 6713.

BFP Complaint

In answer to the BFP Complaint against him, petitioner claimed that in an alleged Confidential Investigation Report dated 31 July 2000

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[8] *Rollo*, pp. 41-42.
[9] Id. at 42.
[10] "Section 46. Discipline: General Provisions.— (a) No officer or employee in the Civil Service shall be suspended or dismissed except for cause as provided by law and after due process.
(b) The following shall be grounds for disciplinary action:
(1) Dishonesty;
x x x x
(4) Misconduct;
x x x x
(27) Conduct prejudicial to the best interest of the service; x x x"

(Confidential Report), no copy of which was attached to the record,[11] the investigating body recommended that charges against him be dropped for insufficiency of evidence. Instead, it recommended that respondents be charged with conducting unauthorized fire safety inspection and engaging in the sale of fire extinguishers, both in violation of the rules.

It appears on record that the Internal Audit Services (IAS) of the BFP issued a Resolution dated 05 July 2005,[12] recommending that the administrative complaint against petitioner be dismissed for insufficiency of evidence.[13] The IAS ruled that the reassignment of respondents was within the ambit of authority of the head of office. Thus, said reassignment may have been ordered as long as the exigencies of the service so required.[14] The Resolution dated 05 July 2005 states in pertinent part:

> The re-assignment of the complainants is within the ambit of authority, CSC Resolution No. 93402 dated 11 February 1993, the commission ruled as follows:
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> *"That reassignment may be ordered by the head of office of the duly* authority [sic] *representative when the exigencies of the service so require but subject to the condition that there will be no reduction in rank, status or salary, further on Bongbong vs Paracaldo (57 SCRA 623) the supreme court ruled held* [sic] *that "on general principle petitioner may be transferred as to the exigencies of the service require".* x x x
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> In view of the documents on record, the undersigned investigator finds no sufficient ground to warrant the filing of appropriate administrative offense against the respondent.
>
> **WHEREFORE,** premises considered, this office (IAS) most respectfully recommends that the administrative complaint against **C/INSP CARLITO ENCINAS, BFP** be dismissed for insufficiency of evidence.

CSCRO Complaint

In his Answer to the formal charge of dishonesty, grave misconduct, and conduct prejudicial to the best interest of service,[15] petitioner claimed that the CSCRO Complaint was an offshoot of the reassignment of respondents. He alleged that they were reassigned after it was discovered that they had conducted a fire safety inspection of establishments within Nueva Ecija without any mission order. In relation to this operation, they supposedly sold fire extinguishers to the owners of the establishments they had inspected.[16] He cited the alleged Confidential Report in which the

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[11] Petitioner referred to the Confidential Report in his *Answer* dated 11 December 2000 (*rollo*, p. 43), but a copy of this report was not attached to the *rollo* or CA rollo.
[12] CA rollo, p. 82-84.
[13] Id. at 83-84.
[14] Id. at 84.
[15] *Rollo*, pp. 43-44.
[16] Id. at 43.

investigating body recommended the dropping of charges against him.[17] He further added that, in view of his exemplary and faithful service, the then-incumbent governor even requested the continuance of his stint as Provincial Fire Marshall of Nueva Ecija.[18] In his Position Paper,[19] petitioner claimed that respondents' transfer had been made in compliance with the directive of Supt. Simeon C. Tutaan (Supt. Tutaan) and pursuant to law.[20]

CSCRO Ruling

Subsequently, the CSCRO issued its Decision dated 30 July 2004,[21] finding petitioner administratively liable for grave misconduct and conduct prejudicial to the best interest of service, and ordered his dismissal from service.

The CSCRO ruled that respondents, through their respective testimonies, were able to establish the fact that petitioner demanded from them the amount of ₱5,000 in exchange for their non-reassignment to far-flung fire stations.[22] The fact that they did not present any document to show that petitioner received ₱2,000 did not preclude a finding of administrative liability.[23] The consistency of their oral testimonies already constituted substantial evidence. Granting that they committed illegal acts prior to their reassignment, this allegation nevertheless did not rebut their claims that petitioner had extorted money from them. The admission of Supt. Tutaan that he gave instructions for their reassignment did not disprove the accusation of extortion, but merely established that there was indeed an order to reassign them.[24]

Petitioner filed a Motion for Reconsideration.[25] He argued that the Sworn Statements of his witnesses should have been given weight instead of respondents' testimonies. He explained that Mrs. Angelina Calanoc (Mrs. Calanoc), owner of Reynand Gas Dealer, confirmed that respondents had conducted a physical inspection of her establishment, after which they recommended that she pay conveyance permit fees as a requisite for the issuance of a Fire Safety Certificate.[26] Also, Carlito Umali confirmed that he had indeed accompanied petitioner when the latter investigated the Complaint filed by Mrs. Calanoc against respondents.[27] Furthermore, Myrna Villanueva – the owner of the house where respondents supposedly paid petitioner ₱2,000 – claimed that she did not know them personally or recall

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[17] Id. at 43.
[18] Id. at 44.
[19] CA rollo, pp. 46-49.
[20] Id. at 49.
[21] Id. at 35-38.
[22] Id. at 37.
[23] Id.
[24] Id.
[25] *Rollo*, pp. 45-55.
[26] Id. at 48, 57.
[27] Id. at 47, 58-59.

either petitioner or respondents ever visiting her house.[28] Likewise, Supt. Tutaan confirmed that he had instructed petitioner to cause the transfer of respondents.[29] The latter also argued that the BFP Complaint had already been dismissed by virtue of the Confidential Report, and that the dismissal had already served as a bar to the further prosecution of any administrative charge against him.[30]

The Motion, however, was subsequently denied by the CSCRO in its Order dated 19 May 2006.[31] It affirmed its previous ruling that the statements of petitioner's witnesses were incompetent and immaterial, having failed to disprove that petitioner had indeed extorted money from respondents.[32] It likewise rejected the argument of *res judicata* proffered by petitioner and ruled that the dismissal of the BFP Complaint by virtue of the Confidential Report was not a judgment on the merits rendered by a competent tribunal. Furthermore, the Confidential Report was the result of the recommendation of a fact-finding committee formed to determine the veracity of the Complaint charging petitioner with extortion, unjustified transfer of BFP personnel, and malversation of funds.[33] *Res judicata* cannot be raised as a defense, since the dismissal of the BFP Complaint did not constitute a bar by former judgment.[34]

Aggrieved, petitioner filed an Appeal Memorandum[35] with the CSC main office. In his Appeal, he argued that respondents were guilty of forum-shopping for having filed two (2) separate administrative Complaints before the CSCRO on the one hand, and before the BFP/DILG on the other.[36] Petitioner argued that respondents failed to attach a certificate of non-forum shopping to either Complaint.[37] Moreover, the CSCRO should not have entertained the Complaint filed before it, considering that it already knew of the then-pending investigation conducted by the BFP/DILG.[38]

Petitioner further argued that the CSCRO only had appellate jurisdiction or authority to decide cases brought before it by the head of agency or, in this case, the BFP.[39] He explained that the administrative Complaint was investigated and heard by the BFP/DILG. The BFP department head or fire director, Rogelio F. Asignado, by virtue of the Resolution dated 05 July 2005, dismissed the complaint for insufficiency of evidence.[40] On the basis of the dismissal of the case, and there being no

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[28] Id. at 47-48, 60.
[29] Id. at 48.
[30] Id. at 52-53.
[31] Order dated 19 May 2006; CA rollo, pp. 33-34.
[32] Id. at 33.
[33] Id. at 34.
[34] Id.
[35] Id. at 64-78.
[36] Id. at 65.
[37] Id.
[38] Id. at 67.
[39] Id.
[40] Id. at 65.

appeal or petition filed pertaining thereto, the CSCRO Complaint should have been dismissed as well.[41] Petitioner further argued that the CSCRO erred in concluding that the resolution of the fact-finding committee was not a judgment on the merits.[42] The BFP being an agency of the government, any decision or resolution it arrives at is also a judgment on the merits.[43]

Petitioner likewise reiterated his previous arguments on the appreciation of the testimonies of his witnesses.[44] He alleged that on 09 June 2006, respondent Agustin executed an Affidavit of Desistance in the former's favor and was no longer interested in pursuing the case against him.[45]

In answer to the Appeal Memorandum, the CSCRO argued that there was no forum-shopping, considering that the BFP Complaint was based on a different cause of action.[46] The Complaint, which pertained to the alleged illegal transfer of personnel under R.A. No. 6975, was docketed for preliminary investigation of the alleged violation of the Anti-Graft and Corrupt Practices Act or R.A. No. 3019.[47] The CSCRO further argued that there could be no *res judicata,* since the dismissal of the BFP Complaint by virtue of the Resolution dated 05 July 2005[48] was not a judgment on the merits rendered by a competent tribunal. The dismissal was, instead, the result of the recommendation of the preliminary investigators of the Internal Audit Service (IAS) of the BFP.[49]

CSC Ruling

Petitioner's appeal was subsequently denied by CSC in its Resolution No. 080941 dated 19 May 2008 (CSC Resolution).[50] It ruled that there was no forum-shopping committed by respondents, and that substantial evidence existed to hold petitioner administratively liable for grave misconduct and conduct prejudicial to the best interest of the service.

The CSC explained that the CSCRO Complaint was for violation of R.A. No. 6713, while the BFP Complaint was for violation of R.A. No. 6975.[51] It further ruled that, although both Complaints were anchored on a similar set of facts, there was no identity of causes of action: thus, even if they were successively filed before different fora, no forum-shopping existed.[52] Although an investigation was then ongoing at the BFP when the

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[41] Id. at 68.
[42] Id. at 69.
[43] Id. at 70.
[44] Id. at 70-76.
[45] Id. at 76.
[46] Id. at 27.
[47] Id.
[48] CSC Resolution erroneously quoted the date as "July 5, 2006" (Id.)
[49] Id.
[50] Id. at 25-32.
[51] Id. at 30.
[52] Id.

CSCRO took cognizance of the case, no forum-shopping resulted. A perusal of the proceedings conducted at the BFP shows that only a preliminary investigation was initiated by the IAS-BFP, a fact-finding committee that recommended the dismissal of the case, which was accordingly approved by the fire director. The approval of this recommendation cannot be regarded as one based on merits. Otherwise, it would bar the filing of another case, particularly, with the CSCRO.[53]

With regard to petitioner's administrative liability, the CSC found that because of the nature of the case – extortion of money – hardly any documentary evidence could be gathered to prove the act complained of. As expected, the CSCRO based its findings on the written and oral testimonies of the parties and their witnesses, as well as on the circumstances surrounding the incident. Respondents clearly established that petitioner had demanded ₱5,000 in exchange for their reassignment.[54] The CSC further ruled that it was contrary to human nature for respondents, who were merely rank-and-file employees, to impute such a grave act to their boss. Their disparity in rank would show that respondents could not have fabricated their charges.[55] It further ruled that the withdrawal of the complaint would not result in their outright dismissal or absolve the person complained of from administrative liability.[56]

Aggrieved yet again, petitioner filed a Rule 43 Petition with the CA. His main argument was that the CSC erred in not dismissing respondents' Complaint despite the absence of a certification of non-forum shopping and respondent's actual forum-shopping, as well as the lack of substantial evidence to hold him administratively liable.[57]

In his Rule 43 Petition, petitioner claimed that a certificate of non-forum shopping attached to a complaint is a mandatory requirement as stated in Section 8, Rule I of the Uniform Rules on Administrative Cases.[58] He argued that the causes of action in the two Complaints were similar. With regard to the proceedings before the CSC, aside from respondents' sole charge of violation of R.A. No. 6713, also included were charges of dishonesty, grave misconduct, and conduct prejudicial to the best interest of service. Petitioner reasoned that the additional offenses charged were equivalent to a violation of R.A. No. 6975, so the issues investigated were substantially the same.[59]

In relation to his administrative liability, petitioner argued that the testimonies of respondents should not be given weight, as their credibility

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[53] Id.
[54] Id. at 31.
[55] Id.
[56] Id. at 32.
[57] Id. at 13.
[58] Id. at 14.
[59] Id. at 15.

had been rendered questionable by their dismissal from the service.[60] Also, they had already withdrawn their Complaints against him, as stated in their Affidavit of Desistance (Affidavit),[61] in which they admitted that the cases were filed out of a misapprehension of facts and a misunderstanding between the parties.[62]

Significantly, respondent Caubang denounced the supposed execution of the Affidavit. He claimed that he did not sign it, and that his purported signature therein was a forgery.[63]

CA Ruling

Subsequently, the CA, in its assailed Decision,[64] denied petitioner's appeal. The CA ruled that it was not the letter-complaint filed by respondents that commenced the administrative proceedings against petitioner; instead, it was the formal charge filed by Atty. Marasigan-De Lima. The letter-complaint merely triggered the CSCRO's fact-finding investigation. Considering that the Complaint was initiated by the proper disciplining authority, it need not contain a certification of non-forum-shopping.[65]

The CA similarly ruled that respondents' act of simultaneously filing Complaints against petitioner both at the CSC and the BFP did not constitute forum-shopping. While it was conceded that the two Complaints were founded on the same set of facts involving the same parties, they were nonetheless based on different causes of action—more specifically, the BFP Complaint was for alleged violation of R.A. No. 3019, while the CSC Complaint was for violation of the provisions of R.A. No. 6713.[66] Furthermore, the doctrine of *res judicata* applies only to judicial or quasi-judicial proceedings, not to the exercise of administrative powers.[67]

With regard to the administrative liability of petitioner, the CA found that substantial evidence supported the CSC's findings.[68] It likewise ruled that the testimonies of the witnesses of petitioner were incompetent and immaterial, as these could prove something else entirely, but did not disprove petitioner's extortion.[69] Also, the withdrawal of a complaint does not result in outright dismissal or discharge a person from any administrative liability.[70]

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[60] Id. at 18.
[61] Id. at 88.
[62] Id. at 19, 88.
[63] Id. at 95-98.
[64] *Rollo*, pp. 24-35.
[65] Id. at 29.
[66] Id. at 30.
[67] Id.
[68] Id. at 31.
[69] Id. at 33.
[70] Id.

Petitioner filed a Motion for Reconsideration,[71] but the CA denied it in its assailed Resolution dated 30 March 2009.[72]

Petitioner is now before this Court arguing the following: (1) the CA erred in affirming the CSC Resolution and in ruling that respondents were not guilty of forum-shopping; and (2) substantial evidence does not exist to hold petitioner administratively liable for grave misconduct and conduct prejudicial to the best interest of the service.

In their Comment, respondents counter that a certificate of non-forum shopping is not required if the one who files the formal charge is the head of agency.[73] They further argue that the case filed with the BFP was in the nature of violation under R.A. No. 3019, whereas the case filed before the CSC was in violation of R.A. No. 6713. A single act may result in two or more unlawful transgressions punishable under different laws.[74] As to the matter of administrative liability, the CSC's findings, especially when affirmed by the CA, are binding upon this Court.[75]

Issues

Based on the submissions of both parties, the following main issues are presented for resolution by this Court:

I. Whether or not respondents are guilty of forum-shopping.

II. Whether the CA erred in ruling that substantial evidence exists to hold petitioner administratively liable for grave misconduct and conduct prejudicial to the best interest of service.

The Court's Ruling

The Petition is devoid of merit. We rule that petitioner is administratively liable for grave misconduct and conduct prejudicial to the best interest of the service under the Administrative Code of 1987; thus, we affirm his dismissal from service.

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[71] CA *rollo,* pp. 149-158.
[72] *Rollo*, p. 37.
[73] Id. at 75.
[74] Id.
[75] Id.

Discussion

I.

Respondents are not guilty of forum-shopping.

Petitioner argues that respondents are guilty of forum-shopping for filing two allegedly identical Complaints in violation of the rules on forum-shopping.[76] He explains that dishonesty, grave misconduct, and conduct prejudicial to the best interest of the service—charges included in the CSCRO Complaint—were charges that were equivalent to the BFP Complaint, the subject of which was his alleged violation of R.A. 6975 or illegal transfer of personnel.[77]

We do not agree with petitioner. In *Yu v. Lim*,[78] this Court enumerated the requisites of forum-shopping as follows:

> Forum-shopping exists when the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in another. *Litis pendentia* requires the concurrence of the following requisites: (1) identity of parties, or at least such parties as those representing the same interests in both actions; (2) identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and (3) **identity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case**.[79] (Emphasis supplied)

Applying the foregoing requisites to this case, we rule that the dismissal of the BFP Complaint does not constitute *res judicata* in relation to the CSCRO Complaint. Thus, there is no forum-shopping on the part of respondents.

Res judicata means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment." It lays down the rule that an existing final judgment or decree on the merits, rendered without fraud or collusion by a court of competent jurisdiction upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies in all other actions or suits, in the same or any other judicial tribunal of concurrent jurisdiction, on the points and matters in issue in the first suit.[80]

In order that *res judicata* may bar the institution of a subsequent action, the following requisites must concur: (a) the former judgment must

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[76] Id. at 16.
[77] Id.
[78] G.R. No. 182291, 22 September 2010, 631 SCRA 172.
[79] Id.
[80] *Selga v. Brar*, G.R. No. 175151, 21 September 2011, 658 SCRA 108.

be final; (b) it must have been rendered by a court having jurisdiction over the subject matter and the parties; (c) it must be a judgment on the merits; and (d) there must be between the first and the second actions (i) identity of parties, (ii) identity of subject matter, and (iii) identity of cause of action.[81]

A judgment may be considered as one rendered on the merits "when it determines the rights and liabilities of the parties based on the disclosed facts, irrespective of formal, technical or dilatory objections;"or when the judgment is rendered "after a determination of which party is right, as distinguished from a judgment rendered upon some preliminary or formal or merely technical point."[82]

In this case, there is no "judgment on the merits" in contemplation of the definition above. The dismissal of the BFP Complaint in the Resolution dated 05 July 2005 was the result of a fact-finding investigation for purposes of determining whether a formal charge for an administrative offense should be filed. Hence, no rights and liabilities of parties were determined therein with finality.

The CA was correct in ruling that the doctrine of *res judicata* applies only to judicial or quasi-judicial proceedings, and not to the exercise of administrative powers.[83] Administrative powers here refer to those purely administrative in nature,[84] as opposed to administrative proceedings that take on a quasi-judicial character.[85]

In administrative law, a quasi-judicial proceeding involves (a) taking and evaluating evidence; (b) determining facts based upon the evidence presented; and (c) rendering an order or decision supported by the facts proved.[86] The exercise of quasi-judicial functions involves a determination, with respect to the matter in controversy, of what the law is; what the legal rights and obligations of the contending parties are; and based thereon and the facts obtaining, the adjudication of the respective rights and obligations of the parties.[87] In *Bedol v. Commission on Elections*,[88] this Court declared:

> Quasi-judicial or administrative adjudicatory power on the other hand is the power of the administrative agency to adjudicate the rights of persons before it. **It is the power to hear and determine questions of fact to which the legislative policy is to apply and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law.** The administrative body exercises its

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[81] *Chu v. Sps. Cunanan*, G.R. No. 156185, 12 September 2011, 657 SCRA 379.
[82] *Cabreza v. Cabreza*, G.R. No. 181962, 16 January 2012, 663 SCRA 29.
[83] *Heirs of Derla v. Heirs of Derla*, G.R. No. 157717, 13 April 2011, 648 SCRA 638.
[84] *Montemayor v. Bundalian*, 453 Phil. 158 (2003).
[85] *See United Pepsi-Cola Supervisory Union (UPSU) v. Laguesma*, 351 Phil. 244, 260 (1998), *Executive Judge Basilia v. Judge Becamon*, 487 Phil. 490 (2004); *Atty. De Vera v. Judge Layague*, 395 Phil. 253 (2000); *Salazar v. De Leon,* G.R. No. 127965, 20 January 2009; *National Housing Authority v. Pascual*, G.R. No. 158364, 28 November 2007, *DOLE Phil., Inc. v. Esteva*, G.R. No. 161115, 30 November 2006.
[86] *Secretary of Justice v. Lantion*, G.R. No. 139465, 18 January 2000, 379 Phil 165 (2000).
[87] *Doran v. Executive Judge Luczon, Jr.,* G.R. No. 151344, 26 September 2006, 503 SCRA 106.
[88] G.R. No. 179830, 03 December 2009, 606 SCRA 554.

> quasi-judicial power when it performs in a judicial manner an act which is essentially of an executive or administrative nature, where the power to act in such manner is incidental to or reasonably necessary for the performance of the executive or administrative duty entrusted to it. In carrying out their quasi-judicial functions the administrative officers or bodies are required to investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them as basis for their official action and exercise of discretion in a judicial nature.

The Court has laid down the test for determining whether an administrative body is exercising judicial or merely investigatory functions: adjudication signifies the exercise of the power and authority to adjudicate upon the rights and obligations of the parties. Hence, if the only purpose of an investigation is to evaluate the evidence submitted to an agency based on the facts and circumstances presented to it, and if the agency is not authorized to make a final pronouncement affecting the parties, then there is an absence of judicial discretion and judgment.[89]

In this case, an analysis of the proceedings before the BFP yields the conclusion that they were purely administrative in nature and constituted a fact-finding investigation for purposes of determining whether a formal charge for an administrative offense should be filed against petitioner.

It can be gleaned from the Resolution dated 05 July 2005 itself that the purpose of the BFP proceedings was to determine whether there was sufficient ground to warrant the **filing of an appropriate administrative offense against petitioner**. To recall, the Resolution dated 05 July 2005 states:

> The re-assignment of the complainants is within the ambit of authority, CSC Resolution No. 93402 dated 11 February 1993, the commission ruled as follows:
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> *"That reassignment may be ordered by the head of office of the duly* authority [sic] *representative when the exigencies of the service so require but subject to the condition that there will be no reduction in rank, status or salary, further on Bongbong vs Paracaldo (57 SCRA 623) the supreme court ruled held* [sic] *that "on general principle petitioner may be transferred as to the exigencies of the service require".* x x x
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> **In view of the documents on record, the undersigned investigator finds no sufficient ground to warrant the filing of appropriate administrative offense against the respondent.**
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> **WHEREFORE, premises considered, this office (IAS) most respectfully recommends that the administrative complaint against C/INSP CARLITO ENCINAS, BFP be dismissed for insufficiency of evidence**.[90] (Emphases supplied)

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[89] *Secretary of Justice v. Lantion*, G.R. No. 139465, 18 January 2000, 379 Phil. 165 (2000), citing *Ruperto v. Torres* [100 Phil. 1098 (1957), unreported].
[90] CA rollo, p. 84.

The proceedings before the BFP were merely investigative, aimed at determining the existence of facts for the purpose of deciding whether to proceed with an administrative action. This process can be likened to a public prosecutor's preliminary investigation, which entails a determination of whether there is probable cause to believe that the accused is guilty, and whether a crime has been committed.

The ruling of this Court in *Bautista v. Court of Appeals*[91] is analogously applicable to the case at bar. In that case, we ruled that the preliminary investigation conducted by a public prosecutor was merely inquisitorial and was definitely not a quasi-judicial proceeding:

> A closer scrutiny will show that **preliminary investigation is very different from other quasi-judicial proceedings**. A quasi-judicial body has been defined as "an organ of government other than a court and other than a legislature which affects the rights of private parties through either adjudication or rule-making."
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> x x x x
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> On the other hand, the prosecutor in a preliminary investigation does not determine the guilt or innocence of the accused. **He does not exercise adjudication nor rule-making functions. Preliminary investigation is merely inquisitorial, and is often the only means of discovering the persons who may be reasonably charged with a crime and to enable the fiscal to prepare his complaint or information. It is not a trial of the case on the merits and has no purpose except that of determining whether a crime has been committed and whether there is probable cause to believe that the accused is guilty thereof. While the fiscal makes that determination, he cannot be said to be acting as a quasi-court, for it is the courts, ultimately, that pass judgment on the accused, not the fiscal.** (Emphases supplied)

This principle is further highlighted in *MERALCO v. Atilano*,[92] in which this Court clearly reiterated that a public prosecutor, in conducting a preliminary investigation, is not exercising a quasi-judicial function. In a preliminary investigation, the public prosecutor inspects the records and premises, investigates the activities of persons or entities coming under the formers' jurisdiction, or secures or requires the disclosure of information by means of accounts, records, reports, statements, testimony of witnesses, and production of documents. In contrast, judicial adjudication signifies the exercise of power and authority to adjudicate upon the rights and obligations of concerned parties, *viz.*:

> This is reiterated in our ruling in *Spouses Balangauan v. Court of Appeals, Special Nineteenth Division, Cebu City,* where we pointed out that a preliminary investigation is not a quasi-judicial proceeding, and the DOJ is not a quasi-judicial agency exercising a quasi-judicial function when it reviews the findings of a public prosecutor regarding the presence of probable cause. A quasi-judicial agency performs adjudicatory

[91] G.R. No. 143375, 6 July 2001, 413 Phil. 159 (2001).
[92] G.R. No. 166758, 27 June 2012, 675 SCRA 112.

> functions when its awards determine the rights of parties, and its decisions have the same effect as a judgment of a court." [This] is not the case when a public prosecutor conducts a preliminary investigation to determine probable cause to file an information against a person charged with a criminal offense, or when the Secretary of Justice [reviews] the former's order[s] or resolutions" on determination of probable cause.
>
> In Odchigue-Bondoc, we ruled that when the public prosecutor conducts preliminary investigation, he thereby exercises investigative or inquisitorial powers. **Investigative or inquisitorial powers include the powers of an administrative body to inspect the records and premises, and investigate the activities of persons or entities coming under his jurisdiction, or to secure, or to require the disclosure of information by means of accounts, records, reports, statements, testimony of witnesses, and production of documents. This power is distinguished from judicial adjudication which signifies the exercise of power and authority to adjudicate upon the rights and obligations of concerned parties. Indeed, it is the exercise of investigatory powers which sets a public prosecutor apart from the court**. (Emphasis supplied)

Indeed, the public prosecutor exercises investigative powers in the conduct of a preliminary investigation to determine whether, based on the evidence presented, further action should be taken through the filing of a criminal complaint in court. Similarly, in the instant case, the BFP exercised its investigative or fact-finding function to determine whether, based on the facts and the evidence presented, further administrative action—in the form of a formal charge—should be taken against petitioner. In neither instance is there in adjudication upon the rights, obligations, or liabilities of the parties before them.

With the above disquisition, we rule that the dismissal of the BFP Complaint cannot operate as *res judicata*. Therefore, forum-shopping is unavailing in this case.

II.

The CA was correct in ruling that there was substantial evidence to hold petitioner administratively liable for grave misconduct and conduct prejudicial to the best interest of the service.

On the substantive issue, petitioner claims that the findings are based on a misapprehension of facts. The dismissal of respondents from service allegedly placed their credibility in question.[93]

We do not agree. We find petitioner administratively liable for his act of demanding ₱5,000 from respondents in exchange for their non-reassignment.

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[93] *Rollo*, p. 18.

At the outset, we stress the settled rule that the findings of fact of administrative bodies will not be interfered with by the courts in the absence of grave abuse of discretion on the part of the former, or unless the aforementioned findings are not supported by substantial evidence.[94] These factual findings carry even more weight when affirmed by the CA, in which case they are accorded not only great respect, but even finality. These findings are binding upon this Court, unless it is shown that the administrative body has arbitrarily disregarded or misapprehended evidence before the latter to such an extent as to compel a contrary conclusion, had the evidence been properly appreciated.[95] This rule is rooted in the doctrine that this Court is not a trier of facts.[96] By reason of the special knowledge and expertise of administrative agencies over matters falling under their jurisdiction, they are in a better position to pass judgment on those matters.[97]

This Court will not disturb the factual findings of both the CSC and the CA, absent any compelling reason to do so. The conclusion reached by the administrative agencies involved – after their own thorough investigations and hearings, as well as their consideration of the evidence presented before them and their findings thereon, especially when affirmed by the CA – must now be regarded with great respect and finality by this Court.

We rule that the alleged dismissal of respondents from the service would not suffice to discredit them as witnesses. In *People v. Dominguez*,[98] this Court had occasion to rule that even a prior criminal conviction does not by itself suffice to discredit a witness; the testimony of that witness must be assayed and scrutinized in exactly the same way the testimonies of other witnesses must be examined for their relevance and credibility.[99] In *Gomez v. Gomez-Samson*,[100] this Court echoed its previous pronouncement that even convicted criminals are not excluded from testifying as long as, having organs of sense, they "can perceive and perceiving can make known their perceptions to others."[101]

This pronouncement is even more significant in this case, as what petitioner is alleging is not any past criminal conviction of respondents, but merely their dismissal from the service.[102] Scrutinizing the testimonies of respondents, we find, as did both the CSC and the CA, that these testimonies carry more weight than petitioner's self-serving statements and blanket denials.

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[94] *Catmon Sales International Corporation v. Yngson, Jr.*, G.R. No. 179761, 15 January 2010, 610 SCRA 236.
[95] Id.
[96] *Raniel v. Jochico*, G.R. No. 153413, 02 March 2007, 517 SCRA 221.
[97] *Sps. Ricardo, Jr. v. Cinco*, G.R. No. 174143, 28 November 2011, 661 SCRA 311.
[98] G.R. No. 100199, 18 January 1993, 217 SCRA 170.
[99] Id.
[100] G.R. No. 156284, 06 February 2007, 514 SCRA 475.
[101] Id. at 511.
[102] See *Gomez v. Gomez-Samson,* G.R. No. 156284, 06 February 2007, 514 SCRA 475.

Respondents, through their testimonies, were able to establish that petitioner told them that unless they paid him ₱5,000, they would be re-assigned to far-flung areas. The consistency of their testimonies was further bolstered by the fact that they had been cross-examined by petitioner's counsel. Petitioner was unable to rebut their claims other than by mere denials. Even the admission of Supt. Tutaan that he gave the instructions to reassign respondents cannot disprove the latter's claims. As regards the testimonies of the witnesses of petitioner, we hold that even these testimonies are irrelevant in disproving the alleged extortion he committed, as these were mainly related to respondents' supposed illegal activities, which are not the issue in this case.

Even assuming that an Affidavit of Desistance was indeed executed by respondents, petitioner is still not exonerated from liability. The subsequent reconciliation of the parties to an administrative proceeding does not strip the court of its jurisdiction to hear the administrative case until its resolution. Atonement, in administrative cases, merely obliterates the personal injury of the parties and does not extend to erase the offense that may have been committed against the public service.[103] The subsequent desistance by respondents does not free petitioner from liability, as the purpose of an administrative proceeding is to protect the public service based on the time-honored principle that a public office is a public trust.[104] A complaint for malfeasance or misfeasance against a public servant of whatever rank cannot be withdrawn at any time for whatever reason by a complainant, as a withdrawal would be "anathema to the preservation of the faith and confidence of the citizenry in their government, its agencies and instrumentalities."[105] Administrative proceedings "should not be made to depend on the whims and caprices of complainants who are, in a real sense, only witnesses therein."[106]

In view of the foregoing, we rule that petitioner's act of demanding money from respondents in exchange for their non-reassignment constitutes grave misconduct. We have defined grave misconduct as follows:

> Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer; and the misconduct is grave if it involves any of the additional elements of **corruption**, such as willful intent to violate the law or to disregard established rules, which must be established by substantial evidence.[107] (Emphasis supplied)

Furthermore, petitioner's acts likewise constitute conduct prejudicial to the best interest of the service. In *Philippine Retirement Authority v.*

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[103] *Flores v. Garcia*, A.M. No. MTJ-03-1499 & A.M. No. P-03-1752, 06 October 2008, 567 SCRA 342.
[104] See *Flores v. Garcia*, A.M. No. MTJ-03-1499 & A.M. No. P-03-1752, 06 October 2008, 567 SCRA 342.
[105] *Guro v. Doronio*, 444 Phil. 827 (2003) citing *Esmeralda-Baroy v. Peralta*, 350 Phil. 431 (1998).
[106] *Guro v. Doronio*, 444 Phil. 827 (2003) citing *Reyes-Domingo v. Morales*, 396 Phil. 150 (2000).
[107] *Re: Complaint of Mrs. Corazon S. Salvador against Spouses Noel and Amelia Serafico*, A.M. No. 2008-20-SC, 15 March 2010, 615 SCRA 186, 203-204.

Rupa[108] this Court elaborated on the specific acts that constitute the grave offense of conduct prejudicial to the best interest of the service, considering that no concrete description is provided under the Civil Service Law and rules. The Court outlined therein following acts: misappropriation of public funds, abandonment of office, failure to report back to work without prior notice, failure to keep in safety public records and property, making false entries in public documents, and falsification of court orders.[109]

Applying this principle to the present case, we hold that petitioner's offense is of the same gravity or odiousness as that of the aforementioned acts and would likewise amount to conduct prejudicial to the best interest of the service.

As to the imposable penalty, grave misconduct is a grave offense punishable by dismissal even for the first offense.[110] The penalty of dismissal includes forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from reemployment in government service and bar from taking civil service examinations.[111] On the other hand, conduct prejudicial to the best interest of the service is likewise a grave offense, but with a less severe penalty of suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal for the second offense.[112]

Considering that petitioner was found guilty of two (2) offenses, then the penalty of dismissal from the service—the penalty corresponding to the most serious offense—was properly imposed.[113]

WHEREFORE, in view of the foregoing, this petition is hereby **DENIED**. The Decision dated 20 November 2008 and the Resolution dated 30 March 2009 issued by the CA in CA-G.R. SP No. 104074 are hereby **AFFIRMED**.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice

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[108] 415 Phil. 713 (2001).
[109] Id.
[110] Uniform Rules on Administrative Cases in the Civil Service, Sec. 52(A) 3 [Sec. 4 (A)(3) of the Revised Rules on Administrative Cases in Civil Service dated 18 November 2011 (Revised Rules)]
[111] Uniform Rules on Administrative Cases in the Civil Service, Sec. 58 (Sec. 52 of the Revised Rules).
[112] Uniform Rules on Administrative Cases in the Civil Service, Sec. 52 (A) 20 [Sec. 46(B)(8) of the Revised Rules].
[113] "If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances." [Uniform Rules on Administrative Cases in the Civil Service, Sec. 55 (Sec. 50 of the Revised Rules)].

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

(No part)
LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ROBERTO A. ABAD
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

(No part)
ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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