



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

PHILIPPINE AMUSEMENT  
AND GAMING  
CORPORATION,

Petitioner,

- versus -

LORENIA P. DE GUZMAN,  
Respondent.

G.R. No. 208261

Present:

SERENO, C.J., Chairperson,  
CARPIO,\*  
LEONARDO-DE CASTRO,  
REYES,\*\* and  
PERLAS-BERNABE, JJ.

Promulgated:

DEC 08 2014

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*<sup>1</sup> filed by petitioner Philippine Amusement and Gaming Corporation (PAGCOR) are the Decision<sup>2</sup> dated March 8, 2013 and the Resolution<sup>3</sup> dated July 9, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 123506, which affirmed the Decision<sup>4</sup> dated September 21, 2011 and the Resolution<sup>5</sup> dated February 1, 2012 of the Civil Service Commission (CSC) dismissing the administrative disciplinary case against respondent Lorenia P. De Guzman (De Guzman), without prejudice to its re-filing.

\* Designated Acting Member per Special Order No. 1899 dated December 3, 2014.

\*\* Designated Acting Member per Special Order No. 1892 dated November 28, 2014.

<sup>1</sup> Rollo, pp. 10-25.

<sup>2</sup> Id. at 29-37. Penned by Associate Justice Zenaida T. Galapate-Laguilles with Associate Justices Mariflor P. Punzalan Castillo and Amy C. Lazaro-Javier, concurring.

<sup>3</sup> Id. at 39-40.

<sup>4</sup> Id. at 68-73. Signed by Chairman Francisco T. Duque III and Commissioner Mary Ann Z. Fernandez-Mendoza. Attested by Director Dolores B. Bonifacio.

<sup>5</sup> Id. at 76-80. Signed by Chairman Francisco T. Duque III and Commissioner Mary Ann Z. Fernandez-Mendoza. Commissioner Rasol L. Mitmug was on leave. Attested by Director Dolores B. Bonifacio.

### The Facts

On December 7, 2001, PAGCOR hired De Guzman as an Evaluation Specialist and assigned her to the Property and Procurement Department.<sup>6</sup> At the time of her employment, De Guzman accomplished a Personal History Statement (PHS),<sup>7</sup> which requires an attestation<sup>8</sup> from the employee that the information stated therein are true and correct to the best of her knowledge and belief, and agreed that any misdeclaration or omission would be sufficient ground for denial of her application, clearance, or cause for separation. In her PHS, De Guzman indicated that she had no relatives currently employed with PAGCOR and did not disclose that she has a sister named Adelina P. See (Adelina).<sup>9</sup> In 2008, De Guzman updated her PHS,<sup>10</sup> reiterating her statement that she had no relatives working with PAGCOR,<sup>11</sup> but this time, listed Adelina as one of her siblings.<sup>12</sup>

It was later found out, however, that De Guzman had a nephew named Gerwin P. See, her sister Adelina's son, who worked in PAGCOR from July 26, 2001 until his resignation on September 22, 2005.<sup>13</sup>

Upon discovery of De Guzman's alleged deceit, Atty. Albert R. Sordan (Atty. Sordan) of PAGCOR's Corporate Investigation Unit sent De Guzman a Notice of Charges<sup>14</sup> dated August 12, 2010 (Formal Charge) charging her of "Deception or Fraud in Securing Employee's Appointment or Promotion" and directed her to show cause why she should not be subjected to any disciplinary action. In her reply-letter<sup>15</sup> dated August 16, 2010, De Guzman, among other things, maintained that she updated her PHS with all honesty and to the best of her knowledge.

In a Memorandum<sup>16</sup> dated November 5, 2010 (Assailed Memorandum) signed by Michael J. Bailey, Officer-In-Charge of PAGCOR's Human Resource and Development Department (HRDD-OIC Bailey), De Guzman was found administratively liable for the charges filed against her and was, thus, dismissed.

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<sup>6</sup> Id. at 30.

<sup>7</sup> Id. at 127-131.

<sup>8</sup> The attestation is worded as follows:

I HEREBY CERTIFY that the foregoing answers are true and correct to the best of my knowledge and belief and I agree that any misdeclaration or omission would be sufficient ground for denial of my application, clearance or cause for separation. (Id. at 131 and 138.)

<sup>9</sup> Id. at 70.

<sup>10</sup> Id. at 132-139.

<sup>11</sup> Id. at 135.

<sup>12</sup> Id.

<sup>13</sup> Id. at 30. See also id. at 70.

<sup>14</sup> Id. at 56-57.

<sup>15</sup> Id. at 58-59.

<sup>16</sup> Id. at 60.

De Guzman received a copy of the Assailed Memorandum on November 6, 2010 and appealed her dismissal before the CSC on December 10, 2010.<sup>17</sup> PAGCOR opposed the appeal for having been belatedly filed.<sup>18</sup>

### **The CSC Ruling**

In a Decision<sup>19</sup> dated September 21, 2011, the CSC ruled in favor of De Guzman and dismissed the administrative disciplinary case against her, without prejudice to its re-filing.<sup>20</sup> Despite its finding that De Guzman indeed filed her appeal 19 days beyond the expiration of the 15-day reglementary period, the CSC nevertheless took cognizance of the same, holding that technical rules of procedure are not strictly applied in administrative proceedings, as in this case.<sup>21</sup>

The CSC found that the Formal Charge and the Assailed Memorandum were not issued by the proper disciplinary authority – PAGCOR in this case – but merely by its employees, namely Atty. Sordan and HRDD-OIC Bailey, respectively. As such, no Formal Charge was validly filed against De Guzman, resulting in the violation of her right to due process.<sup>22</sup> Consequently, the CSC ordered PAGCOR to reinstate De Guzman to her position and to pay her back salaries from date of dismissal to actual reinstatement.<sup>23</sup>

PAGCOR moved for reconsideration, which was, however, denied in a Resolution<sup>24</sup> dated February 1, 2012. Aggrieved, it appealed<sup>25</sup> to the CA.

### **The CA Ruling**

In a Decision<sup>26</sup> dated March 8, 2013, the CA affirmed the CSC ruling.<sup>27</sup> It held that the CSC correctly relaxed its procedural rules in giving due course to De Guzman's appeal, opining that administrative bodies exercising quasi-judicial powers, such as the CSC, are unfettered by the rigidity of technical procedural rules.<sup>28</sup> On the merits, the CA agreed with the CSC's findings that De Guzman was deprived of due process as the Formal Charge and the Assailed Memorandum against her were not issued

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<sup>17</sup> Id. at 32.

<sup>18</sup> Id. at 71.

<sup>19</sup> Id. at 68-73.

<sup>20</sup> Id. at 73.

<sup>21</sup> Id. at 71.

<sup>22</sup> Id. at 71-72.

<sup>23</sup> Id. at 73.

<sup>24</sup> Id. at 76-80.

<sup>25</sup> Id. at 81-110.

<sup>26</sup> Id. at 29-37.

<sup>27</sup> Id. at 37.

<sup>28</sup> Id. at 34-35.

by PAGCOR, but merely by its employees without any authorization. Hence, the dismissal of the case without prejudice.<sup>29</sup>

Undaunted, PAGCOR moved for reconsideration, which was denied in a Resolution<sup>30</sup> dated July 9, 2013, hence, this petition.

### **The Issue Before the Court**

The primordial issue for the Court's resolution is whether or not the CA correctly affirmed the CSC's dismissal of the administrative disciplinary case against De Guzman on the ground that she was deprived of her right to due process.

### **Ruling of the Court**

The petition is bereft of merit.

As a general rule, an appeal is not a matter of right but a mere statutory privilege, and as such, may only be availed in the manner provided by the law and the rules. Thus, a party who seeks to exercise the right to appeal must comply with the requirements of the rules; otherwise, the privilege is lost.<sup>31</sup> Therefore, an appeal must be perfected within the reglementary period provided by law; otherwise, the decision becomes final and executory. However, as in all cases, there are exceptions to the strict application of the rules in perfecting an appeal,<sup>32</sup> such as when said appeal is meritorious.<sup>33</sup> Verily, strict implementation of the rules on appeals must give way to the factual and legal reality that is evident from the records of the case. After all, the primary objective of the laws is to dispense justice and equity, not the contrary.<sup>34</sup>

In light of the foregoing jurisprudence and after a judicious review of the records, the Court finds no error on the part of the CA in affirming the CSC's ruling giving due course to De Guzman's appeal despite its belated filing for being meritorious, as will be discussed hereunder.

Section 16 of the Uniform Rules on Administrative Cases in the Civil Service (URACCS) requires in administrative disciplinary proceedings that the disciplinary authority furnish the employee concerned a formal charge

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<sup>29</sup> Id. at 35-37.

<sup>30</sup> Id. at 39-40.

<sup>31</sup> *Lepanto Consolidated Mining Corporation v. Icao*, G.R. No. 196047, January 1, 2014, citing *BPI Family Savings Bank, Inc. v. Pryce Gases, Inc.*, G.R. No. 188365, June 29, 2011, 653 SCRA 42, 51.

<sup>32</sup> *TFS, Incorporated v. Commissioner of Internal Revenue*, G.R. No. 166829, April 19, 2010, 618 SCRA 346, 352; citations omitted.

<sup>33</sup> See *Commission on Appointments v. Paler*, G.R. No. 172623, March 3, 2010, 614 SCRA 127, 134.

<sup>34</sup> *Semblante v. CA*, G.R. No. 196426, August 15, 2011, 655 SCRA 444, 453; citation omitted.

specifying the latter's acts and/or omissions complained of, and directing him to answer the charges stated therein, viz.:

Section 16. Formal Charge. – After a finding of a *prima facie* case, **the disciplining authority shall formally charge the person complained of.** The formal charge shall contain a specification of charge(s), a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge(s) in writing under oath in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his answer whether or not he elects a formal investigation of the charge(s), and a notice that he is entitled to be assisted by a counsel of his choice. (Emphasis and underscoring supplied)

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In the case at bar, it is undisputed that PAGCOR was the one that appointed De Guzman to her position. Adhering to the well-settled principle that the power to remove or to discipline is lodged in the same authority on which the power to appoint is vested,<sup>35</sup> only PAGCOR has the power to discipline or remove De Guzman for any transgressions she may have committed. As a corporate entity,<sup>36</sup> PAGCOR may only act through its Board of Directors as a collective body, which is vested with the power and responsibility to exercise all corporate powers under the law.<sup>37</sup> Simply put, PAGCOR is the proper disciplinary authority of PAGCOR employees, and as such, formal charges against its employees in administrative disciplinary proceedings should emanate from it, through its Board of Directors, as in this case.

However, in this instance, the Formal Charge, as well as the Assailed Memorandum, did not come from PAGCOR through its Board of Directors, but merely from Atty. Sordan and HRDD-OIC Bailey, respectively. Records are bereft of any showing that the latter were authorized by the PAGCOR Board of Directors to issue the aforesaid documents. As such, the Formal Charge and the Assailed Memorandum are null and void. Consequently, De Guzman's removal from PAGCOR without a valid formal charge was done in violation of her right to due process, warranting the dismissal of the instant administrative disciplinary case against her, without prejudice to its re-filing, pursuant to Section 48 of the URACCS, to wit:

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<sup>35</sup> *Pichay, Jr. v. Office of the Deputy Executive Secretary for Legal Affairs-Investigative and Adjudicatory Division*, G.R. No. 196425, July 24, 2012, 677 SCRA 408, 429, citing *Ambas v. Buenaseda*, 278 Phil. 322, 328 (1991).

<sup>36</sup> See Presidential Decree No. 1869, entitled "CONSOLIDATING AND AMENDING PRESIDENTIAL DECREE NOS. 1067-A, 1067-B, 1067-C, 1399 AND 1632, RELATIVE TO THE FRANCHISE AND POWERS OF THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR)" (July 11, 1983).


<sup>37</sup> See *First Philippine Holdings Corp. v. Trans Middle East (Phils.) Equities, Inc.*, 622 Phil. 623, 629 (2009), citing *Associated Bank v. Pronstroller*, 580 Phil. 104, 120 (2008).

Section 48. *When to Remand an Appealed Case to Agency of Origin.* — If on appeal, the Commission finds that the disciplining authority violated respondent-appellant's right to due process such as the failure to issue a formal charge, the Commission shall dismiss the appealed case and order the immediate reinstatement of the respondent with payment of back salaries and other benefits. However, the dismissal of the case shall be without prejudice on the part of the disciplining authority to re-file it in accordance with law. (Emphases and underscoring supplied)


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**WHEREFORE**, the petition is **DENIED**. Accordingly, the Decision dated March 8, 2013 and the Resolution dated July 9, 2013 of the Court of Appeals in CA-G.R. SP No. 123506 are hereby **AFFIRMED**.

**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

  
**ANTONIO T. CARPIO**  
Associate Justice

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**BIENVENIDO L. REYES**  
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