



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

CECILIA RACHEL V. QUISUMBING, G.R. No. 209283
 Petitioner,

Present:

- versus -

CARPIO, J., *Chairperson*,
 BRION,
 DEL CASTILLO,
 MENDOZA, and
 LEONEN, JJ.

LORETTA ANN P. ROSALES, MA.
VICTORIA V. CARDONA and
NORBERTO DELA CRUZ, in their
capacities as Chairperson and Members,
respectively, of the COMMISSION ON
HUMAN RIGHTS,

Promulgated:

Respondents.

MAR 11 2015

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DECISION

BRION, J.:

Before this Court is the petition for *certiorari* and prohibition¹ under Rule 65 of the Rules of Court filed by petitioner Commissioner Cecilia Rachel V. Quisumbing (*petitioner*) to annul and set aside the Show Cause Order dated September 18, 2013 issued by the Commission on Human Rights (*CHR*), through its Chairperson Loretta Ann P. Rosales (*Chairperson Rosales*).

The Antecedents

In a meeting of the CHR held on September 18, 2013, several complaints of former employees of the petitioner, namely: Ma. Regina D. Eugenio (*Eugenio*), Elizabeth Diego-Buizon (*Buizon*), Alexander B. Fernandez (*Fernandez*), and Jesse Ayuste (*Ayuste*) were taken up by the CHR. Only respondents Chairperson Rosales, Commissioner Ma. Victoria V. Cardona and Commissioner Norberto dela Cruz (*Commissioner dela*

¹ Rollo, pp. 3-21.

Cruz) were present during the meeting; the petitioner was on sick leave while Commissioner Jose Manuel S. Mamauag (*Commissioner Mamauag*) was away on official business.

In their affidavits, Eugenio, Buizon, Fernandez and Ayuste accused the petitioner of: (1) seriously maltreating and inflicting upon them mental abuse through her unreasonable behavior and demands on how they should work in or out of the office; (2) taking a cut from some of her employees' salaries to form an office fund under her sole control; (3) repeatedly misplacing and taking no action on official documents requiring her action; (4) forging another commissioner's signature; (5) hiring employees who do not come to work; and (6) contracting consultancy work for another government agency.

On the bases of these affidavits, the CHR issued on the same day Resolution CHR (IV) No. A2013-148 (*CHR Resolution*), through Chairperson Rosales, a Show Cause Order (dated September 18, 2013), requesting the petitioner to submit within five (5) days from receipt, a written explanation as to why she should not be held liable for any administrative disciplinary actions, and to transmit the written explanation together with her supporting documents to the Office of the Ombudsman. The Show Cause Order specified allegations of the petitioner's involvement in the commission of certain acts of malfeasance or misfeasance constituting misconduct, dishonesty, oppression, grave abuse of authority and conduct prejudicial to the best interest of service, all in violation of the Civil Service Laws and Rules and the Code of Conduct and Ethical Standards for Public Officials and Employees. The Show Cause Order was served at the petitioner's office on September 19, 2013.

On September 26, 2013, Commissioner Mamauag issued a Memorandum stating his concurrence with the September 18, 2013 CHR Resolution.

On September 27, 2013, Chairperson Rosales sent letters to the President of the Republic of the Philippines and the Office of the Ombudsman regarding the complaints and allegations against the petitioner. Attached to the letters were copies of the Show Cause Order and the CHR Resolution. Chairperson Rosales brought attention to the serious allegations against the petitioner and prayed for the Offices' appropriate action. Chairperson Rosales also requested the Office of the Ombudsman to act on the complaint in accordance with the established investigation and prosecutorial procedures.

On October 4, 2013, the petitioner filed with the CHR Secretariat a Manifestation and Motion to Dismiss the Show Cause Order. The petitioner assailed the validity of the Show Cause Order, claiming that its issuance is null and void because it denied her due process.

Without waiting for the CHR to act on her motion, the petitioner filed on October 16, 2013, the present Petition for *Certiorari* and Prohibition before this Court.

On October 23, 2013, the CHR through Chairperson Rosales and Commissioners dela Cruz and Mamauag issued an Order stating that it could no longer act on petitioner's Motion to Dismiss since the case had been forwarded to the Office of the Ombudsman by virtue of its letter dated September 27, 2013.

The Petition

The petitioner imputes the following errors committed by the respondents:

- I. The respondents acted without jurisdiction and/or with grave abuse of discretion amounting to lack of jurisdiction in ordering the petitioner to show cause why she should not be held liable for administrative disciplinary actions on the bases of the allegations stated in the Show Cause Order, in violation of the petitioner's right to due process of law.
- II. The respondents acted without jurisdiction and/or with grave abuse of discretion amounting to lack of jurisdiction in filing charges with the President of the Republic of the Philippines and the Office of the Ombudsman against the petitioner without due process of law.

The petitioner argues that the respondents gravely abused their discretion when they issued the Show Cause Order and the CHR Resolution during the meeting held on September 18, 2013, knowing fully well that the petitioner would not be able to attend the same. The petitioner claims that the respondents acted in bad faith and with malice when they brought up at this meeting, during her absence, the complaints of her former employees, thereby depriving her of the opportunity to refute the allegations and to participate as a member of the CHR.

The petitioner also questions the validity of the Show Cause Order as it appears to have been issued by Chairperson Rosales alone. She points out that Chairperson Rosales, without reference to the other members of the CHR, solely signed and issued the Show Cause Order. Citing *GMCR, Inc. v. Bell Telecommunication Philippines, Inc.*,² the petitioner contends that the act of a single member, though he may be its head, done without the participation of others, cannot be considered the act of the collegial body itself. Since the CHR is a collegial body requiring the concurrence of majority of its members in order to validly arrive at a decision, the act of

² 338 Phil. 507 (1997).

Chairperson Rosales in issuing the Show Cause Order amounted to usurpation of the authority and prerogative of the CHR.

The petitioner further maintains that the Show Cause Order is insufficient to enable her to respond to the allegations made because it does not specifically state: (1) the “acts of malfeasance or misfeasance by way of misconduct, grave abuse of authority and conduct prejudicial to the best interest of service” that she allegedly committed; and (2) the “civil service laws and rules, and the Code of Conduct and Ethical Standards for Public Officials and Employees” that she allegedly violated. Thus, the petitioner claims that she was denied due process of law.

The petitioner lastly alleged that the respondents gravely abused their discretion when they referred the affidavits of her former employees to the President of the Republic of the Philippines and the Office of the Ombudsman. She claims that since the CHR, as a body, was not empowered by law to act on disciplinary complaints against its own members, the respondents have no authority to issue the Show Cause Order.

The Office of the Solicitor General’s Comment

The Office of the Solicitor General (*OSG*) filed its Comment³ dated January 13, 2014, on behalf of the respondents, arguing that the petitioner availed of the wrong remedy when she filed the special civil action for *certiorari* to assail the Show Cause Order. The OSG points out that a special civil action for *certiorari* is available only when any tribunal, board or officer *exercising judicial or quasi-judicial functions* has acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. Since the respondents, acting in their official capacities as Chairperson and Members of the CHR, were not engaged in judicial or quasi-judicial functions when they issued the assailed Show Cause Order, the petition for *certiorari* should be dismissed for being an improper remedy.

The OSG also asserts that the petitioner failed to show that the respondents acted with grave abuse of discretion in issuing the Show Cause Order. The OSG emphasizes that aside from petitioner’s bare allegations of malice and bad faith, she did not offer any convincing evidence proving that the respondents exercised their power in an arbitrary or despotic manner, by reason of passion or personal hostility.

The OSG lastly submits that the petitioner failed to exhaust all administrative remedies available to her before instituting the present petition. Since the petitioner had an ample administrative remedy under the law to protect her right, it was premature for her to commence the present petition before the Court.

³ *Rollo*, pp. 157-166.

The Issue

The ultimate issue to be resolved is whether the petitioner is entitled to the issuance of the writs of *certiorari* and prohibition.

The Court's Ruling

We dismiss the petition.

We stress, at the outset, that the subsequent referral of the case to the Office of the Ombudsman for appropriate prosecutorial action rendered the issues raised in the present petition moot and academic insofar as the CHR is concerned.

Records disclose that the CHR, through Chairperson Rosales and Commissioners Dela Cruz and Mamauag, issued an Order stating that it could no longer act on the petitioner's Motion to Dismiss since the case had been forwarded to the Office of the Ombudsman. Thus, no practical relief can be granted to the petitioner by resolving the present petition since the proceedings before the CHR – the initiation of an investigation through the issuance of the assailed Show Cause Order – had been terminated.

The petition likewise fails for plain lack of merit. The OSG correctly argued that the respondents, in their official capacities as Chairperson and Members of the CHR, did not engage in judicial or quasi-judicial functions; they did not adjudicate the rights and obligations of the contending parties but simply undertook to initiate the investigation of the allegations against the petitioner. The inquiry was not a quasi-judicial proceeding, where offenses were charged, parties were heard and penalties were imposed. It was at most, an exercise of fact-finding investigation, which is entirely distinct and different from the concept of adjudication.⁴ The power to initiate an investigation and to refer the matter to the Office of the Ombudsman is within the power of the CHR as an entity with its own distinct personality and is recognized by no less than the Constitution.⁵ Thus, the CHR did not commit any grave abuse of discretion in its actions.

⁴ *Manila Electric Company v. Atilano*, G.R. No. 166758, June 27, 2012, 675 SCRA 112, 124.

⁵ Rule 3, Section 1, g and p of the Commission on Human Rights Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses, and the Provision of CHR Assistance, to wit:

x x x x

g) To issue invitations, subpoenas, orders, or other processes requesting or directing any person to appear, attend and testify at the meeting, forum, conference, dialogue, public inquiry, or hearing conducted by the Commission, any of its Regional Offices, sub-offices or designated CHR officers or committees; and for such person/s to produce and submit records, documents, books or other things under his/her/their possession, control or supervision, and which are relevant to the case/s being investigated by the Commission;

x x x x

p) Endorse its findings and recommendations to competent and relevant Government agencies or bodies and other stakeholders, for appropriate and prompt actions;

x x x x

The petition also fails with respect to the petitioner's claim of denial of due process. There can be no denial of due process where a party was afforded an opportunity to present his case.⁶ In the present case, the petitioner was given ample opportunity to air her side on the allegations against her after being sufficiently apprised of the allegations against her; she was afforded the chance to submit her written explanation. Unfortunately, the petitioner failed to avail of that right, and chose to directly seek the intervention of this Court. These circumstances, by themselves, point the prematurity of the petition.

Jurisprudence tells us that the essence of due process in administrative proceedings is the chance to explain one's side, or seek a reconsideration of the action or ruling complained of. As long as the parties are given the opportunity to be heard before any definitive action is taken, the demands of due process are sufficiently met.⁷


In sum, we find that the petition for *certiorari* and prohibition should be dismissed for mootness and for lack of merit.

WHEREFORE, premises considered, we hereby **DISMISS** the petition for *certiorari* and prohibition.

SO ORDERED.


ARTURO D. BRION
Associate Justice

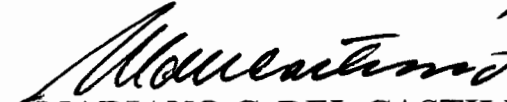
WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

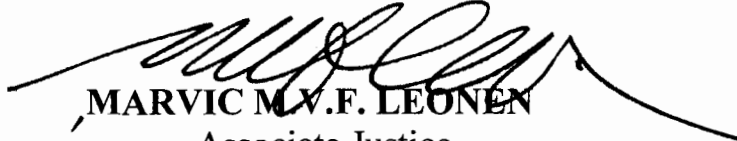
An administrative agency may initiate an investigation on a complaint or on its own motion. Administrative Law Text and Cases, De Leon, Jr., 2005. ed., p. 69; The authority of the Ombudsman to investigate offenses involving public officers and employees is not exclusive; the authority of the Ombudsman is concurrent with other government investigating agencies. *Natividad v. Felix*, G.R. No. 111616, February 4, 1994, 229 SCRA 680.

⁶ *Vivo v. Philippine Amusement and Gaming Corporation (PAGCOR)*, G.R. No. 187854, November 12, 2013, 709 SCRA 276, 283.

⁷ *Umali v. Exec. Sec. Guingona, Jr.*, 365 Phil. 77 (1999).



MARIANO C. DEL CASTILLO
 Associate Justice


JOSE CATRAL MENDOZA
 Associate Justice


MARVIC M.V.F. LEONEN
 Associate Justice


ATTESTATION

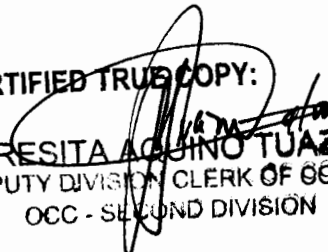
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


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

CERTIFIED TRUE COPY:

TERESITA ACOSINO TUAZON
 DEPUTY DIVISION CLERK OF COURT
 OCC - SECOND DIVISION