



Republic of the Philippines
Supreme Court
 Manila

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Wilfredo V. Lapidan
 WILFREDO V. LAPIDAN
 Division Clerk of Court
 Third Division
 SEP 26 2017

THIRD DIVISION

ATTY. MELITA S. RECTO-SAMBAJON,
 Petitioner,

G.R. No. 197745

Present:

VELASCO, J.,
Chairperson,
 BERSAMIN,
 LEONEN,
 MARTIRES, and
 GESMUNDO, JJ.

- versus -

PUBLIC ATTORNEY'S OFFICE
 Respondent.

Promulgated:

September 6, 2017

Mis-DC-Batt

X ----- X

DECISION

MARTIRES, J.:

This Petition for Review on Certiorari seeks to reverse and set aside the 25 May 2011 Decision¹ and the 13 July 2011 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 117768, reversing the 17 May 2010³ and 11 January 2011⁴ Resolutions of the Civil Service Commission (CSC), and finding Atty. Melita S. Recto-Sambajon (*Atty. Recto-Sambajon*) guilty of Grave Misconduct and of Being Notoriously Undesirable.

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¹ *Rollo*, pp. 74-99; penned by Associate Justice Amy C. Lazaro-Javier and concurred in by Associate Justices Rebecca de Guia-Salvador and Normandie B. Pizarro.

² *Id.* at 71-72.

³ *Id.* at 274-285; Penned by Commissioner Mary Ann Z. Fernandez-Mendoza and concurred in by Chairman Francisco T. Duque III and Commissioner Cesar D. Buenaflor.

⁴ *Id.* at 400-407.

THE FACTS

On 17 June 2009, Chief Public Attorney Persida V. Rueda-Acosta (*Chief Acosta*) summoned petitioner Atty. Recto-Sambajon due to the latter's reaction to her reassignment from the Public Attorney's Office (*PAO*) Legal Research Service – Central Office to the PAO Valenzuela City office. Initially, Atty. Recto-Sambajon denied reports that she had cried over her supposed reassignment. She, however, was overcome by emotion and uttered in anger, "*Yung mga naghahatid [ng] maling impormasyon kay Chief ay paduduguin ko ang mata.*" Her outburst was witnessed by Marilyn Boongaling (*Boongaling*), Ma. Ruby F. Florendo, Alma E. Dumago-Latos and Tricia Larrissa Leofando, PAO personnel present at that time.⁵

On 18 June 2009, Atty. Recto-Sambajon, together with Atty. Froilan Cabarios, Officer-in-Charge of the Field Operation and Statistics Office, went to the office of Atty. Amelia C. Garchitorena (*Atty. Garchitorena*), head of the Special and Appealed Cases (*SACS*) and asked Atty. Garchitorena whether Herminia Polo, a SACS staff, told Chief Acosta that she had cried after learning of her reassignment. Atty. Garchitorena responded that she told Chief Acosta that Atty. Recto-Sambajon cried when the latter learned that she would be reassigned, and that during their conversation, Atty. Recto-Sambajon threatened "[w]hoever will feed any wrong information to the Chief, I will shoot them conjoined through the eyes."⁶

On 22 June 2009, after the flag ceremony, Atty. Recto-Sambajon asked Nelson Acevedo (*Acevedo*), an administrative staff, where Boongaling was. When Acevedo told her that Boongaling was at the conference room, she responded, "*[s]abihin mo sa kanya, pag may nangyari sa anak ko babarilin ko siya.*" While Acevedo was trying to pacify Atty. Recto-Sambajon, Boongaling emerged from the conference room and called Acevedo. After seeing Boongaling, Atty. Recto-Sambajon reiterated her threats and told the former she would shoot her should anything happen to her child as she was pregnant at the time. For fear that Atty. Recto-Sambajon would carry out her threats, Boongaling reported the incident to Chief Acosta on the same day.⁷

In a Memorandum,⁸ dated 25 June 2009, Deputy Chief Public Attorney Silvestre A. Mosing (*Atty. Mosing*) ordered Atty. Recto-Sambajon to explain why she should not be administratively charged with Grave

⁵ Id. at 23-24.

⁶ Id. at 24-25.

⁷ Id. at 25.

⁸ Id. at 416.



Misconduct. In her Memorandum,⁹ dated 31 July 2009, Atty. Recto-Sambajon explained that: she had uttered the threatening words to defend herself from the false rumors spreading against her; and that she was in an unstable physical condition due to her pregnancy having a history of miscarriage, which was known to her colleagues.

On 17 August 2009, Atty. Recto-Sambajon was formally charged for Grave Misconduct and for being Notoriously Undesirable. In the PAO's 8 December 2009 Decision,¹⁰ Atty. Mosing found her guilty of the offenses charged and accordingly dismissed her from the service. Chief Acosta approved the decision. Atty. Mosing opined that there was substantial evidence to find Atty. Recto-Sambajon guilty of Grave Misconduct and for being Notoriously Undesirable, noting that Atty. Recto-Sambajon's remarks were tantamount to Grave Threats punishable under Article 282 of the Revised Penal Code. He highlighted the grounds to support the findings that Atty. Recto-Sambajon was Notoriously Undesirable: her threatening remarks; her allegations of immaterial and irrelevant events in her memorandum; her act of filing a petition for injunction against her reassignment; and her resort to a media interview to assail her reassignment.

Aggrieved, Atty. Recto-Sambajon appealed before the CSC.

The CSC Ruling

In its 17 May 2010 Resolution,¹¹ the CSC partially granted Atty. Recto-Sambajon's appeal. It concurred that she failed to observe the standards expected of a public servant by intimidating or threatening her colleagues. The CSC, however, disagreed that Atty. Recto-Sambajon's hostile remarks amounted to Grave Misconduct because it was not shown that she was tainted with a depraved and corrupt mind and that she intended to violate the law or to exhibit a flagrant disregard of established rule. It pointed out that she was only emotional considering that she was subjected to malicious rumours which put her integrity into question and which could possibly affect the welfare of the child she was carrying. In addition, the CSC found that Atty. Recto-Sambajon was not Notoriously Undesirable considering her satisfactory performance rating, and that she had no previous record of any malfeasance, misfeasance and nonfeasance. It thus concluded that Atty. Recto-Sambajon was guilty only of Simple Misconduct. The dispositive portion reads:

WHEREFORE, the appeal of Melita S. Recto, Public Attorney IV, Public Attorney's Office (PAO) – Valenzuela District Office, National Capital Region, is hereby **PARTLY GRANTED**. Accordingly, the



⁹ Id. at 431-441.

¹⁰ Id. at 474-505.

¹¹ Id. at 274-285.

Decision dated December 8, 2009 issued by Secretary Agnes VST Devanadera, Department of Justice (DOJ) on December 16, 2009, finding her guilty of the administrative offenses of Grave Misconduct and Being Notoriously Undesirable and meting upon her the penalty of dismissal from the service including all its accessory penalties, is hereby **MODIFIED** to the extent that she is found guilty of Simple Misconduct only and meted the penalty of suspension from the service for six (6) months.¹²

The PAO moved for reconsideration but it was denied by the CSC in its 24 January 2011 Resolution. Undeterred, the PAO appealed before the CA.

THE CA RULING

In its assailed 25 May 2011 Decision, the CA reversed and set aside the CSC resolution ruling that the PAO had the authority to appeal the CSC resolutions pursuant to *Geronga v. Varela (Varela)*.¹³ Further, it disagreed with the CSC that Atty. Recto-Sambajon was guilty only of Simple Misconduct because the grave threats she uttered displayed a violent, dangerous, if not murderous, tendency towards her colleagues. The CA explained that the nature of Atty. Recto-Sambajon's threats shows that it was not merely an error in judgment but motivated by a wrongful intent. It emphasized that her remarks amounted to grave threats. On the other hand, the appellate court expounded that her repeated threats evince a vicious cycle of violence and uncontrolled temper which could result in dire consequences if not promptly curtailed. Thus, the CA agreed that Atty. Recto-Sambajon was also guilty of Being Notoriously Undesirable, thus, it ruled:

ACCORDINGLY, the petition is **GRANTED**. CSC Resolution NO. 10-0919 dated May 17, 2010 and CSC Resolution no 1100070 dated January 11, 2011 are SET ASIDE, and, in lieu thereof, PAO **RESOLUTION** dated December 8, 2009, as confirmed by the Secretary of the Department of Justice, finding Atty. Melita S. Recto-Sambajon guilty of Grave Misconduct and Being Notoriously Undesirable, and imposing on her the penalty of **DISMISSAL** from the service, with all its accessory penalties, is **REINSTATED**.

The prayer for injunctive relief is considered moot and academic.¹⁴

Atty. Recto-Sambajon moved for reconsideration but was denied by the CA in its assailed 13 July 2011 Resolution.



¹² Id. at 285.

¹³ 570 Phil. 39 (2008).

¹⁴ *Rollo*, pp. 98-99.

Hence, this appeal raising the following:

ISSUES

I.

WHETHER THE HONORABLE COURT OF APPEALS GRAVELY ERRED ON A QUESTION OF LAW IN TAKING COGNIZANCE OF THE PETITION IN CA-G.R. SP NO. 117768, THE SAME NOT BEING AVAILABLE AS A REMEDY OF THE PUBLIC ATTORNEY'S OFFICE (PAO) IN ASSAILING CIVIL SERVICE COMMISSION RESOLUTION NO. 100919 DATED 17 MAY 2010 AND CIVIL SERVICE COMMISSION RESOLUTION NO. 1100070 DATED 11 JANUARY 2011;

II.

WHETHER THE HONORABLE COURT OF APPEALS GRAVELY ERRED ON A QUESTION OF LAW IN SETTING ASIDE THE ASSAILED RESOLUTIONS OF THE CIVIL SERVICE COMMISSION (CSC) AND IN DISREGARDING ITS FINDINGS OF FACT; AND

III.

WHETHER THE HONORABLE COURT OF APPEALS GRAVELY ERRED ON A QUESTION OF LAW IN HOLDING THAT HEREIN PETITIONER IS GUILTY OF GRAVE MISCONDUCT AND OF BEING NOTORIOUSLY UNDESIRABLE.¹⁵

THE COURT'S RULING

The petition has no merit.

Disciplining authority may appeal the decision which reduced the original penalty imposed.

Atty. Recto-Sambajon argues that the CSC resolution which reduced her offense from grave misconduct to simple misconduct cannot be appealed by the PAO. She explains that the pronouncements in *Varela* are inapplicable because she was not exonerated of the charges as her offense and the corresponding penalty were merely downgraded.

A cursory reading of the ruling in *Varela* reveals that it had definitively addressed the issue whether a CSC decision exonerating an

¹⁵ Id. at 37-38.



erring government employee may be appealed by the disciplining authority. It, however, did not answer whether a decision downgrading the offense and the corresponding penalty may be appealed.

Nevertheless, under the present rules and jurisprudence, the question whether such decision may be appealed had been settled. In *Light Rail Transit Authority v. Salavaña*,¹⁶ the Court ruled that decisions modifying the penalty imposed on erring government employees may be appealed by the disciplining authority, to wit:

The employer has the right “to select honest and trustworthy employees.” When the government office disciplines an employee based on causes and procedures allowed by law, it exercises its discretion. This discretion is inherent in the constitutional principle that “[p]ublic officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives.” This is a principle that can be invoked by the public as well as the government office employing the public officer.

x x x x

Honesty and integrity are important traits required of those in public service. **If all decisions by quasi-judicial bodies modifying the penalty of dismissal were allowed to become final and unappealable, it would, in effect, show tolerance to conduct unbecoming of a public servant.** The quality of civil service would erode, and the citizens would end up suffering for it. (emphasis supplied)

During the pendency of this decision, or on November 18, 2011, the Revised Rules on Administrative Cases in the Civil Service or RRACCS was promulgated. The Civil Service Commission modified the definition of a “party adversely affected” for purposes of appeal.

Section 4. *Definition of Terms.* —

x x x x

k. PARTY ADVERSELY AFFECTED refers to the respondent against whom a decision in an administrative case has been rendered or to the disciplining authority in an appeal from a decision reversing or modifying the original decision.

Procedural laws have retroactive application. In *Zulueta v. Asia Brewery*:

As a general rule, laws have no retroactive effect. But there are certain recognized exceptions, such as when they are remedial or procedural in nature. This Court explained this exception in the following language:



¹⁶ 736 Phil. 123 (2014).

It is true that under the Civil Code of the Philippines, "(l)aws shall have no retroactive effect, unless the contrary is provided. But there are settled exceptions to this general rule, such as when the statute is CURATIVE or REMEDIAL in nature or when it CREATES NEW RIGHTS."

x x x x

On the other hand, remedial or procedural laws, i.e., those statutes relating to remedies or modes of procedure, which do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of such rights, ordinarily do not come within the legal meaning of a retrospective law, nor within the general rule against the retrospective operation of statutes.

Thus, **procedural laws may operate retroactively as to pending proceedings even without express provision to that effect. Accordingly, rules of procedure can apply to cases pending at the time of their enactment.** In fact, statutes regulating the procedure of the courts will be applied on actions undetermined at the time of their effectivity. Procedural laws are retrospective in that sense and to that extent. (emphasis in the original)

Remedial rights are those rights granted by remedial or procedural laws. These are rights that only operate to further the rules of procedure or to confirm vested rights. As such, the retroactive application of remedial rights will not adversely affect the vested rights of any person. Considering that the right to appeal is a right remedial in nature, we find that Section 4, paragraph (k), Rule I of the RRACCS applies in this case. Petitioner, therefore, had the right to appeal the decision of the Civil Service Commission that modified its original decision of dismissal.

Recent decisions implied the retroactive application of this rule. While the right of government parties to appeal was not an issue, this court gave due course to the appeals filed by government agencies before the promulgation of the Revised Rules on Administrative Cases in the Civil Service.

x x x x

Thus, we now hold that **the parties adversely affected by a decision in an administrative case who may appeal shall include the disciplining authority whose decision dismissing the employee was either overturned or modified by the Civil Service Commission.**¹⁷ (emphasis supplied)

Thus, under the present legal milieu, disciplining authorities have the right to appeal CSC decisions which have modified the penalty originally meted against erring government personnel. If it were otherwise, the government would be deprived of its right to weed out undeserving public

¹⁷ Id. at 148-151.



servants. Consequently, the PAO had legal standing to appeal the decision reinstating Atty. Recto-Sambajon to her former post, whom it previously found unfit to continue as a public attorney.

Atty. Recto-Sambajon also assails that the PAO cannot challenge the decision of the CSC after the latter had submitted to its jurisdiction. In addition, she claims that the CA should have respected the findings of the CSC because of its expertise in the matter.

The PAO pointed out that it only questioned the CSC's conclusions and findings¹⁸ and did not challenge the jurisdiction of the CSC to entertain Atty. Recto-Sambajon's appeal. To reiterate, decisions of the CSC, either exonerating the government employee concerned or modifying the penalty imposed, may be appealed to the CA. In addition, while the Court agrees that, as a rule, findings of fact made by quasi-judicial and administrative bodies are generally binding upon the Court, it admits exceptions such as when it is in disregard of the evidence on record.¹⁹

Having settled the procedural issues, we now address the question whether Atty. Recto-Sambajon was guilty of Grave Misconduct and for Being Notoriously Undesirable.

*Grave misconduct vis-à-vis
Conduct Prejudicial to the
Service*

Under the Revised Rules on Administrative Cases (*RRACCS*),²⁰ both Grave Misconduct and Being Notoriously Undesirable are categorized as grave offenses, punishable by dismissal. The CA and the CSC agree that Atty. Recto-Sambajon uttered threatening remarks against her colleagues, but differ as to its appreciation. On the one hand, the CSC found that it was only tantamount to Simple Misconduct because it was not shown that she had intentionally intended to violate the law or to flagrantly disregard established rules. On the other hand, the CA considered Atty. Recto-Sambajon's threats as Grave Misconduct because it manifested a violent and dangerous tendency towards her colleagues whenever she was angered or offended.

"Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behaviour or gross negligence by a public officer."²¹ It is qualified as grave when it is attended with corruption

¹⁸ *Rollo*, p. 164.

¹⁹ *Japson v. CSC*, 663 Phil. 665, 675 (2011).

²⁰ Rule 10, Section 46(A).

²¹ *Chavez v. Garcia*, G.R. No. 195054, 4 April 2016.

or wilful intent to violate the law or to disregard established rules—otherwise the misconduct is only simple.²² In addition, in order that an action be deemed a “misconduct” it must have a direct relation to and be connected with the performance of his official duties amounting either to maladministration or wilful, intentional neglect or failure to discharge the duties of the office.²³

The Court agrees with the CA’s observation that Atty. Recto-Sambajon’s threats should not be treated lightly as it may have serious repercussions considering that it involved infliction of bodily harm or death. However, the remarks in question are not tantamount to grave misconduct because it lacks the element of direct relation to the performance of official duties. As can be gleaned from the records, Atty. Recto-Sambajon issued the threats because of the rumours spread against her, such as her allegedly crying after her supposed reassignment. Thus, it can be readily seen that the threats Atty. Recto-Sambajon uttered had no direct relation to or connection with the performance of her official duties amounting either to maladministration or wilful, intentional neglect or failure to discharge the duties of the office.

Instead, Atty. Recto-Sambajon’s actions constitute Conduct Prejudicial to the Best Interest of the Interest Service, a grave offense under the RRACCS.²⁴ Unlike Grave Misconduct, Conduct Prejudicial to the Best Interest of the Service need not be related to or connected with the public officer’s official function as it suffices that the act in question tarnishes the image and integrity of his/her public office.²⁵ Thus, it is broader as it encompasses all transgressions which may put a particular public office in a bad light. Surely, Atty. Recto-Sambajon uttering threatening remarks against her colleagues, more so in the presence of Chief Acosta, stained the image and integrity of the PAO as a public institution.

Atty. Recto-Sambajon’s repeated threats made her notoriously undesirable.

The PAO also found Atty. Recto-Sambajon guilty of being Notoriously Undesirable. The CSC disagreed, however, explaining that her satisfactory performance rating runs contrary to the findings that she was notoriously undesirable. On the other hand, the CA ratiocinated that Atty. Recto-Sambajon was notoriously undesirable taking into account her repeated violent behavior.



²² Id.

²³ *Government Service Insurance System v. Mayordomo*, 665 Phil. 131, 149 (2011), citing *Manuel v. Calimag*, 367 Phil. 162, 166 (1999).

²⁴ Rule 10, Section 46(B).

²⁵ *Government Service Insurance System v. Mayordomo*, supra note 23 at 150.

In the administrative offense of Being Notoriously Undesirable, a two-fold test is employed, to wit: (1) whether it is common knowledge or generally known as universally believed to be true or manifest to the world that the employee committed the acts imputed against him; and (2) whether he had contracted the habit for any of the enumerated misdemeanors.²⁶ Applying these, the Court finds Atty. Recto-Sambajon guilty of Being Notoriously Undesirable.

In this case, the threatening remarks made by Atty. Recto-Sambajon were generally known considering that she made those remarks in the presence of several colleagues. In fact, she admitted to have uttered such but justified it as an emotional outburst. Further, Atty. Recto-Sambajon manifested a predilection to be violent with her colleagues.

We note that Atty. Recto-Sambajon had threatened her colleagues on several consecutive days and even had the audacity to utter menacing remarks in the presence of Chief Acosta. Her threats cannot simply be treated as an emotional outburst considering that she made them on several occasions. More importantly, the hostile remarks were of a grave nature considering that she had threatened, not merely to inflict physical pain, but to cause death. Thus, there is substantial evidence to hold her Notoriously Undesirable. Atty. Recto-Sambajon's hostile and menacing attitude towards her colleagues has no place in public service.

*Penalty of the graver
offense imposed*

Under Rule 10, Section 46(A) of the RRACCS, Being Notoriously Undesirable is a grave offense punishable by dismissal from service. On the other hand, Rule 10 Section 46(B) thereof classifies Conduct Prejudicial to the Best Interest of the Service as a grave offense punishable by suspension of six (6) months and one (1) day to one (1) year for the first offense, and dismissal from the service for the second offense. In the case at bar, Atty. Recto-Sambajon is guilty of two grave offenses with different penalties. Applying Rule 10, Section 50²⁷ of the RRACCS, the appropriate penalty to be imposed on Atty. Recto-Sambajon is dismissal from service.

WHEREFORE, the petition is **DENIED**. The 25 May 2011 Decision and the 13 July 2011 Resolution of the Court of Appeals in CA-G.R. SP No. 117768 are **AFFIRMED**.



²⁶ *Escaño v. Manaois*, A.M. No. 16-02-01-CTA, 15 November 2016.

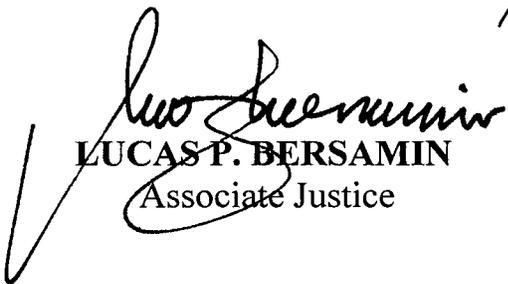
²⁷ Section 50. Penalty for the Most Serious Offense. – If the respondent is found guilty of two (2) or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge and the rest shall be considered as aggravating circumstances.

SO ORDERED.


SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


LUCAS P. BERSAMIN
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


ALEXANDER G. GESMUNDO
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.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

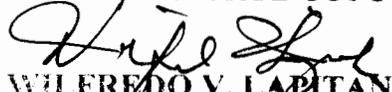
CERTIFICATION

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.



ANTONIO T. CARPIO
Acting Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

SEP 26 2017