

MATEO, Romeo, Jr., C.

Re: Grave Misconduct; Oppression; Appeal

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RESOLUTION NO. 011276

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Romeo C. Mateo, Jr., Police Officer I, Philippine National Police, Department of the Interior and Local Government (DILG) appeals the Decision of the People's Law Enforcement Board, Los Banos dated December 6, 1997 and the Decision of the Regional Appellate Board, Region IV dated March 12, 1998. Both decisions found Mateo, Jr. guilty for the offense Grave Misconduct/Oppression. The former imposed the penalty of forced resignation; the latter modified the same to dismissal from the police service.

From the Decisions, appellant Mateo, Jr. appealed before the National Appellate Board (NAB). In its Resolution dated December 29, 1999, the Board dismissed the appeal citing as reason therefor the absence of the Board's jurisdiction over the subject matter of the appeal. The NAB ruled that under Sections 20(c) and 45 of Republic Act No. 6975 (**An Act Establishing the Philippine National Police Under A Reorganized Department of the Interior and Local Government**), their authority to review is limited to those rendered by the Chief of the Philippine National Police. In Mateo's case, it declared, the decision was rendered by the PLEB.

From said ruling, appellant interposed an appeal to the DILG Secretary on March 13, 2000 but the same was dismissed for having been filed out of time in an Order dated November 29, 2000.

The pertinent portions of the PLEB Decision, RAB Decision and DILG Secretary Order , respectively, read, as follows:

PLEB:

“This Board concludes that we have here a simple case of cause and effect. The cause - was the intimidation made by respondent upon the person of complainant while they were talking namely the handcuffing, the throwing of the gun and the accusation of being an informer which gave rise to the effect - giving of the P100.00 and the three kilos of mangoes. It is inconceivable for an ambulant vendor who has to pedal his way under the sun and the rain to sell his wares, contribute P100.00 to two unknown persons were it not for the intimidation made by respondent upon the person of the complainant. xxx

*“**WHEREFORE**, premises considered, the PEOPLE’S LAW ENFORCEMENT BOARD of Los Banos, Laguna finds respondent PO1 ROMEO C. MATEO, JR.*

“GUILTY OF OPPRESSION AND HEREBY IMPOSE THE PENALTY OF FORCED RESIGNATION, PO1 XXX MATEO IS THEREFORE CONSIDERED RESIGNED.”

RAB:

“This Board fully agrees with the findings of the PLEB xxx and finds no justifiable reason/s to reverse the same. xxx

“To serve as a warning to police officers similarly situated, the forced resignation meted to appellant by the PLEB xxx is hereby MODIFIED to DISMISSAL FRM THE POLICE SERVICE WITH PREJUDICE.”

DILG Secretary Order:

“From said decision, the respondent-appellant filed an appeal with the Secretary of the Interior and Local Government only on March 13, 2000 which is beyond the fifteen (15) day reglementary period to perfect an appeal. Thus the decision has long been final and executory and this Department has lost jurisdiction over the same.”

In his appeal, Mateo, Jr. represented, as follows:

- “1) *The PLEB erred in not finding the respondent entitled to the minimum penalty of suspension of three (3) months;*
- “2.) *The Regional Appellate Board erred in modifying the penalty of forced resignation to that of dismissal with prejudice;*
- “3.) *That the Decision is contrary to Law (sic);*
- “4.) *That the penalty of either forced resignation or dismissed with prejudice is too harsh nay in human (sic).”*

As a matter of procedure, the incumbent DILG Secretary was requested to comment on said appeal and to transmit the entire records of the case in an Order dated February 26, 2001. No comment was submitted; however, the complete records of the case was furnished the Commission.

Records show that on June 11, 1997, Freddie A. Tinghil, ambulant vendor in Los Banos, Laguna, filed a complaint against Mateo, Jr. for the offenses of Grave Misconduct and Oppression before the People’s Law Enforcement Board (PLEB), Los Banos, Laguna. The acts complained of happened on June 7, 1997 wherein Tinghil declared that he was forced to give the appellant the amount of One Hundred Pesos (PhP 100.00) and three (3) kilos of mangoes when he failed to present the Permit to Sell to the appellant. Tinghil was handcuffed and accused of being an informer of a drug syndicate and was threatened at gun point.

After the conduct of hearings, the PLEB found Mateo, Jr. liable for the offense of Oppression and accordingly imposed the penalty of forced resignation. This was contained in Decision dated December 6, 1997.

On January 12, 1998, Mateo, Jr. appealed the decision to the Regional Appellate Board (RAB). In affirming

the findings of the PLEB in its Decision dated March 12, 1998, the RAB modified the penalty from forced resignation to dismissal from the police service with prejudice.

An appeal to the National Appellate Board (NAB) was taken from RAB's ruling. However, it was dismissed for lack of jurisdiction in NAB Resolution dated December 29, 1999. In so ruling, the NAB stated that it has no jurisdiction to review of the decision of the RAB.

Mateo, Jr. thereafter filed his appeal before the Secretary of the Department of the Interior and Local Government (DILG). On November 29, 2000, then DILG Secretary Alfredo S. Lim dismissed the appeal on account of its findings that it was filed out of time. Based on its records, the appeal was filed by Mateo, Jr. only on March 13, 2000 to question a decision rendered on December 29, 1999.

The appeal will not prosper.

The PLEB and RAB Decisions have already attained finality by reason of the lapse of the reglementary period within which said decisions may be assailed. The PLEB decision was rendered on December 6, 1997; and RAB on March 12, 1998.

Under **Section 45 of the Republic Act No. 6975 (An Act Establishing the Philippine National Police Under A Reorganized Department of the Interior and Local Government)**, appeal from the decision by the PLEB to the RAB may be taken within a period of ten (10) days. On the other hand, the period to appeal RAB's decision to the DILG Secretary is fifteen (15) days from the receipt of the decision applying **Section 49, Book V of Executive Order No. 292**, in suppletory character there being no period provided in the Act.

Section 45 of the RA No. 6975 reads, as follows:

“Finality of Disciplinary Action. - The disciplinary action imposed upon a member of the PNP shall be final and executory: Provided, That a disciplinary action imposed by the xxx PLEB involving demotion or dismissal from the service may be appealed to the regional appellate board within ten (10) days from receipt of the copy of the notice of the decision: xxx Provided, finally, That

failure of the regional appellate board to act on the appeal within said period shall render the decision final and executory without prejudice, however, to the filing of an appeal by either party with the Secretary.”

Section 49 of Executive Order No. 292 reads, as follows:

“Section 49. Appeals. - Appeals, where allowable, shall be made xxx within fifteen days from receipt of the decision xxx”

Moreover, the appeal lost by Mateo, Jr. in the DILG cannot be revived in this forum by the mere expediency of questioning anew the decisions of the PLEB and RAB. The DILG Secretary correctly ruled that said decisions have acquired finality on account of the belated filing of appeal thereto in said Department. While the ruling by the NAB was promulgated on December 29, 1999, the appeal to said decision was interposed only on March 13, 2000 or way beyond the fifteen (15)-day period fixed under Section 49 of the aforequoted rules.

It is also for said reason that the principle in law declaring that the issue on jurisdiction may be raised at anytime even on appeal (**Government vs. American Surety Co., 11 Phil. 203**) does not find application in this case. The principle is anchored on the timeliness of assailing the jurisdiction. In the case at hand, while the NAB Resolution dated December 29, 1999 ruled that it has no jurisdiction to review the decision rendered by the PLEB and subsequently issued by the RAB, the appeal to PLEB and RAB Decisions were made only after the lapse of more than two (2) months from the receipt of the NAB Resolution.

Further, Mateo, Jr. failed to present evidence to refute the factual findings by the DILG Secretary that the appeal was filed way beyond the fifteen (15)-day period. This is apparent from Mateo, Jr.’s appeal-memorandum itself wherein the date of receipt of the NAB’s Resolution was deliberately withheld giving rise to the presumption that this date would have been adverse if produced (**Section 3 [e], Rule 131 of the Rules of Court**).

The foregoing finds more strength from the evidence on record that appellant has sought executive clemency on April 29, 1998 before the Office of the President after an adverse decision by the RAB. Appellant’s action only

goes to show that the appeal to the NAB as well as that to the DILG Secretary are mere afterthoughts.

At this juncture, it is worth while to note the ruling of the Supreme Court in the case of **Johnson and Johnson (Phils), Inc. vs. Court of Appeals, 262 SCRA 298**, as follows:

“It is a settled rule that judgment which has acquired finality becomes immutable and unalterable and, hence, may no longer be modified in any respect except only to correct clerical errors or mistakes. Litigations must end and terminate sometime and somewhere, it being essential to the effective and efficient administration of justice xxx”

WHEREFORE, the appeal of Romeo C. Mateo, Jr. is hereby **DISMISSED**.

Quezon City, **JUL 26 2001**

Signed
JOSE F. ERESTAIN, JR.
Commissioner

Signed
KARINA CONSTANTINO-DAVID
Chairperson

O.B.
J. WALDEMAR V. VALMORES

Commissioner

Attested by:

Signed

ARIEL G. RONQUILLO

Director III

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