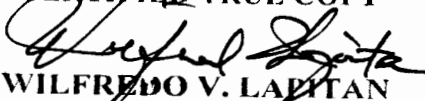




Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY

 WILFREDO V. LAPIDAN
 Division Clerk of Court
 Third Division

MAY 07 2019

THIRD DIVISION

SANTIAGO G. BARCELONA, JR., **G.R. Nos. 226634-44**
 Petitioner,

Present:

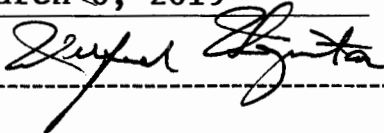
PERALTA, J.,
Chairperson,
 LEONEN,
 A. REYES, JR.,
 HERNANDO, and
 CARANDANG,* JJ.

- versus -

Promulgated:

PEOPLE OF THE PHILIPPINES,
 Respondent.

~~March 6, 2019~~



X-----X

DECISION

REYES, A., JR., J.:

Before this Court is a Petition for Review,¹ filed by Santiago G. Barcelona, Jr. (petitioner), assailing the Joint Decision² dated April 30, 2015 and the Resolution³ dated August 30, 2016 of the Sandiganbayan, Third Division in Criminal Case Nos. SB-10-CRM-0244 to SB-10-CRM-0254. The petition seeks to set aside the Sandiganbayan’s Joint Decision and Resolution adjudging the petitioner guilty for eleven (11) cases of violation of Section 2 of Republic Act (R.A.) No. 6656 or “*An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization.*”

* Designated as additional Member per Special Order No. 2624 dated November 28, 2018.

¹ *Rollo*, pp. 3-30.

² Penned by Associate Justice Samuel R. Martires (now a Retired Justice of this Court), with Presiding Justice Amparo M. Cabotaje-Tang and Associate Justice Alex L. Quiroz, concurring; *id.* at 34-52.

³ *Id.* at 53-57.



The Facts

The petitioner was the municipal mayor of the town of Escalante, Negros Occidental when it was converted to a city by virtue of R.A. No. 9014.⁴

Edna A. Abibas (Abibas), Emerson Bermejo (Bermejo), Rodolfo Pritos (Pritos), Rodolfo Api (Api), Norma Jose (Jose), and Noel Dueñas (Dueñas) alleged that they were removed from their permanent positions as a result of the reorganization of the City of Escalante.

As a result, the petitioner was indicted for violations of Section 2 of R.A. No. 6656. The eleven (11) separate Informations⁵ read as follows:

SB-10-CRM-0244

That sometime in the year 2002, in the City of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SANTIAGO G. BARCELONA, JR., public officer, being then the Municipal Mayor of the City of Escalante, Province of Negros Occidental, in such capacity and committing the crime in relation to office, taking advantage of his public position, with deliberate intent, did then and there, willfully, unlawfully, and criminally dismiss from the service one Edna A. Abibas, who was holding a permanent appointment as Utility Worker II in the City Government of Escalante City, without a valid cause and without due notice and hearing as a result of reorganization, and despite demand or claim for him to reinstate or reappoint said Edna A. Abibas, the said accused refused, and continued to refuse, to do so, to the damage and prejudice of said Edna A. Abibas.

CONTRARY TO LAW.

SB-10-CRM-0245

That sometime in the year 2002, in the City of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SANTIAGO G. BARCELONA, JR., public officer, being then the Municipal Mayor of the City of Escalante, Province of Negros Occidental, in such capacity and committing the crime in relation to office, taking advantage of his public position, with deliberate intent, did then and there, willfully, unlawfully, and criminally dismiss from the service one Aurelio N. Pios, who was holding a permanent appointment as Utility Worker II in the City Government of Escalante City, without a valid cause and without due notice and hearing as a result of reorganization, and despite demand or claim for him to reinstate or reappoint said Aurelio N. Pios, the said accused refused, and continued to refuse, to do so, to the damage and prejudice of said Aurelio N. Pios.

⁴ AN ACT CONVERTING THE MUNICIPALITY OF ESCALANTE, PROVINCE OF NEGROS OCCIDENTAL INTO A COMPONENT CITY TO BE KNOWN AS THE CITY OF ESCALANTE.

⁵ *Rollo*, pp. 34-40.

Meyer

CONTRARY TO LAW.

SB-10-CRM-0246

That sometime in the year 2002, in the City of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SANTIAGO G. BARCELONA, JR., public officer, being then the Municipal Mayor of the City of Escalante, Province of Negros Occidental, in such capacity and committing the crime in relation to office, taking advantage of his public position, with deliberate intent, did then and there, willfully, unlawfully, and criminally dismiss from the service one Eduardo L. Bacaron, who was holding a permanent appointment as Driver II in the City Government of Escalante City, without a valid cause and without due notice and hearing as a result of reorganization, and despite demand or claim for him to reinstate or reappoint said Eduardo L. Bacaron, the said accused refused, and continued to refuse, to do so, to the damage and prejudice of said Eduardo L. Bacaron.

CONTRARY TO LAW.

SB-10-CRM-0247

That sometime in the year 2002, in the City of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SANTIAGO G. BARCELONA, JR., public officer, being then the Municipal Mayor of the City of Escalante, Province of Negros Occidental, in such capacity and committing the crime in relation to office, taking advantage of his public position, with deliberate intent, did then and there, willfully, unlawfully, and criminally dismiss from the service one Emerson Bermejo, who was holding a permanent appointment as Driver in the City Government of Escalante City, without a valid cause and without due notice and hearing as a result of reorganization, and despite demand or claim for him to reinstate or reappoint said Emerson Bermejo, the said accused refused, and continued to refuse, to do so, to the damage and prejudice of said Emerson Bermejo.

CONTRARY TO LAW.

SB-10-CRM-0248

That sometime in the year 2002, in the City of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SANTIAGO G. BARCELONA, JR., public officer, being then the Municipal Mayor of the City of Escalante, Province of Negros Occidental, in such capacity and committing the crime in relation to office, taking advantage of his public position, with deliberate intent, did then and there, willfully, unlawfully, and criminally dismiss from the service one Noel C. Dueñas, who was holding a permanent appointment as Utility Worker II in the City Government of Escalante City, without a valid cause and without due notice and hearing as a result of reorganization, and despite demand or claim for him to reinstate or reappoint said Noel C. Dueñas, the said accused refused, and continued to refuse, to do so, to the damage and prejudice of said Noel C. Dueñas.

Meyer

CONTRARY TO LAW.

SB-10-CRM-0249

That sometime in the year 2002, in the City of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SANTIAGO G. BARCELONA, JR., public officer, being then the Municipal Mayor of the City of Escalante, Province of Negros Occidental, in such capacity and committing the crime in relation to office, taking advantage of his public position, with deliberate intent, did then and there, willfully, unlawfully, and criminally dismiss from the service one Silva P. Bacaron, who was holding a permanent appointment as Utility Worker II in the City Government of Escalante City, without a valid cause and without due notice and hearing as a result of reorganization, and despite demand or claim for him to reinstate or reappoint said Silva P. Bacaron, the said accused refused, and continued to refuse, to do so, to the damage and prejudice of said Silva P. Bacaron.

CONTRARY TO LAW.

SB-10-CRM-0250

That sometime in the year 2002, in the City of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SANTIAGO G. BARCELONA, JR., public officer, being then the Municipal Mayor of the City of Escalante, Province of Negros Occidental, in such capacity and committing the crime in relation to office, taking advantage of his public position, with deliberate intent, did then and there, willfully, unlawfully, and criminally dismiss from the service one Rodolfo C. Pritos, who was holding a permanent appointment as Utility Worker II in the City Government of Escalante City, without a valid cause and without due notice and hearing as a result of reorganization, and despite demand or claim for him to reinstate or reappoint said Rodolfo C. Pritos, the said accused refused, and continued to refuse, to do so, to the damage and prejudice of said Rodolfo C. Pritos.

CONTRARY TO LAW.

SB-10-CRM-0251

That sometime in the year 2002, in the City of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SANTIAGO G. BARCELONA, JR., public officer, being then the Municipal Mayor of the City of Escalante, Province of Negros Occidental, in such capacity and committing the crime in relation to office, taking advantage of his public position, with deliberate intent, did then and there, willfully, unlawfully, and criminally dismiss from the service one Rodolfo B. Api, who was holding a permanent appointment as Utility Worker II in the City Government of Escalante City, without a valid cause and without due notice and hearing as a result of reorganization, and despite demand or claim for him to reinstate or reappoint said Rodolfo B. Api, the said accused refused, and continued to refuse, to do so, to the damage and prejudice of said Rodolfo B. Api.

Meyer

CONTRARY TO LAW.

SB-10-CRM-[0252]

That sometime in the year 2002, in the City of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SANTIAGO G. BARCELONA, JR., public officer, being then the Municipal Mayor of the City of Escalante, Province of Negros Occidental, in such capacity and committing the crime in relation to office, taking advantage of his public position, with deliberate intent, did then and there, willfully, unlawfully, and criminally dismiss from the service one Constantino Dueñas, who was holding a permanent appointment as Labor Foreman in the City Government of Escalante City, without a valid cause and without due notice and hearing as a result of reorganization, and despite demand or claim for him to reinstate or reappoint said Constantino Dueñas, the said accused refused, and continued to refuse, to do so, to the damage and prejudice of said Constantino Dueñas.

CONTRARY TO LAW.

SB-10-CRM-0253

That sometime in the year 2002, in the City of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SANTIAGO G. BARCELONA, JR., public officer, being then the Municipal Mayor of the City of Escalante, Province of Negros Occidental, in such capacity and committing the crime in relation to office, taking advantage of his public position, with deliberate intent, did then and there, willfully, unlawfully, and criminally dismiss from the service one Amelia B. Villa, who was holding a permanent appointment as Utility Worker II in the City Government of Escalante City, without a valid cause and without due notice and hearing as a result of reorganization, and despite demand or claim for him to reinstate or reappoint said Amelia B. Villa, the said accused refused, and continued to refuse, to do so, to the damage and prejudice of said Amelia B. Villa.

CONTRARY TO LAW.

SB-10-CRM-0254

That sometime in the year 2002, in the City of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SANTIAGO G. BARCELONA, JR., public officer, being then the Municipal Mayor of the City of Escalante, Province of Negros Occidental, in such capacity and committing the crime in relation to office, taking advantage of his public position, with deliberate intent, did then and there, willfully, unlawfully, and criminally dismiss from the service one Norma D. Jose, who was holding a permanent appointment as Utility Worker II in the City Government of Escalante City, without a valid cause and without due notice and hearing as a result of reorganization, and despite demand or claim for him to reinstate or reappoint said Norma D. Jose, the said accused refused, and continued to refuse, to do so, to the damage and prejudice of said Norma D. Jose.

Meyer

CONTRARY TO LAW.

Version of the Prosecution

Abibas, Bermejo, Pritos, Api, Jose and Dueñas, former employees of the Local Government of Escalante City, testified for the prosecution.

They alleged that they were former employees of Escalante City when the *Sangguniang Panlungsod* Ordinance was implemented causing the reorganization of the City of Escalante, which brought about the abolition of their positions. With the implementation of this Ordinance, the petitioner, then Mayor of the City of Escalante, issued a Memorandum directing all the employees to submit applications for their placement in their preferred positions.⁶

The said witnesses duly complied with the memorandum of the petitioner where their application letters were submitted to the Placement Committee, however, nothing transpired as they were eventually terminated.⁷

As a result of the inaction by the said Committee, the witnesses, alongside the other employees, wrote a letter addressed to the petitioner begging them to be reinstated to any position since this is their only means of livelihood.⁸

As there was no action coming from the Office of the Mayor, they filed their appeal to the Civil Service Commission (CSC).⁹

The CSC Regional Office, thereafter, issued a Decision dated October 11, 2002, directing the petitioner “to appoint said appellants to positions in the new staffing pattern which are similar to or are comparable to their former positions and to which they qualify, or if there are none, to positions next lower in rank and to which they qualify.”¹⁰

The petitioner did not comply with the order, but instead filed a Motion for Reconsideration which was denied by the CSC in its Decision¹¹ dated July 8, 2003.

⁶ Id. at 40.

⁷ Id.

⁸ Id. at 40-41.

⁹ Id. at 41.

¹⁰ Id.

¹¹ Rendered by Assistant Commissioner Jesse J. Caberoy; id. at 158-177.

Meyer

Undeterred by the denial of the Motion for Reconsideration, the petitioner filed an appeal before the CSC Central Office and continued to defy the ruling of the CSC directing the reinstatement of the said employees.

When the CSC Central Office dismissed the appeal and, subsequently, denied his motion for reconsideration, the petitioner elevated the case *via* Petition for Review before the Sandiganbayan. The appellate court dismissed the same, thus, making the Decision dated June 4, 2007 of the CSC final.

Melencio G. Yap, then, assumed as new mayor, with the term of the petitioner coming to an end.

Another witness, Delia P. Ocdinaria (Ocdinaria), is the Human Resource Management Officer of the City of Escalante.

By virtue of a subpoena from the Office of the Special Prosecutor, Ocdinaria submitted the plantilla of the manpower for the City Government of Escalante prior to and after the reorganization in 2002 pursuant to the Ordinance, the service records, and the appointments of the 11 terminated employees, among other documents.

The witness testified that she had issued appointments of employees as a result of the reorganization which were already for signature by the appointing authority. These were likewise turned over to the CSC for its prompt action.

Witness Ocdinaria was advised though that some appointments were not approved for the reason that “the incumbent or the existing personnel were not placed to comparable positions as to the appointments mentioned.”¹² The affected personnel were Abibas, Api, Jose, Amelia Villa, Silva Bacaron, Eduardo Bacaron, Bermejo, Constantino Dueñas, Dueñas, Aurelio Pios, Pritos, Gloria Tan, Diolito Albento, and Joseph Dalmario.

She alleged that there were 211 positions, but after the reorganization, 336 positions were thereafter created, with another position being added, which was tantamount to 337 positions available.

Version of the Defense

The defense presented two witnesses: the petitioner and former City Councilor and Chairperson of the Placement Committee of the City of Escalante, Evelyn L. Hinolan (Hinolan).

¹² Id. at 42.



The petitioner admitted that the Municipality of Escalante became a component city of Negros Occidental for which they had adopted a revised organizational structure and staffing pattern, with the selection of personnel. Resolution No. 047 was passed by the *Sangguniang Panlungsod* of Escalante which provided for the creation of a Placement Committee that would select qualified personnel for placement in pursuit of the reorganization. In the same vein, Ordinance No. 103 was passed that adopted a new staffing pattern for the newly organized local government. Executive Order No. 6 created a Placement Committee.

The petitioner issued Office Memorandum No. 10, Series of 2002, which directed all city government employees to submit their new applications for the positions they intended, further advising them, through a Notice, that there are 191 vacant positions available.

The petitioner reasoned that his policy of not filling up all the 191 positions was by reason of the delay in the remittance of the city's share in revenue allocation. He said that he intended for the unused funds to be utilized for future purposes.

The petitioner clarified that it was the Placement Committee which conducted interviews and background checks which finalized the list of manpower who would qualify to be posted in the reorganized structure. When the private complainants wrote a letter of reconsideration to the petitioner, he replied that he was only affirming the decision of the Personnel Selection Board, or the Placement Committee.

Witness Hinolan corroborated the testimony of the petitioner. She asserted that she was the Chairperson of the Placement Committee which comprised of the following members: the petitioner, the Vice Mayor, Councilor Armando Alcos, Mrs. Aniceta Hinolan, Mr. Guarino Maguate (Maguate) and Mrs. Thelma Francisco.

She further testified that the petitioner did not play a major role in the Placement Committee as it is Maguate who was the representative in the said selection committee.

She explained that the employees who were no longer posted were given oral performance evaluations by their department heads and remarked that they were either lazy, habitually absent and tardy, or not fit for work. She was not able to produce written evaluation forms for the reason that it was not a human resource practice to include these performance evaluations in the 201 files of employees. She likewise admitted that the Placement Committee did not comply with the provisions of R.A. No. 6656.

Meyer

In a Joint Decision¹³ dated April 30, 2015, the Honorable Sandiganbayan found the petitioner guilty for all 11 cases. The dispositive portion of the ruling reads:

WHEREFORE, premised (sic) considered, in Criminal Case Nos. SB-10-CRM-0244 up to SB-10-CRM-0254, the accused SANTIAGO G. BARCELONA, JR., is hereby found **GUILTY** in each of the eleven (11) cases herein. The accused is hereby sentenced to pay a fine of **FIVE THOUSAND PESOS (P5,000.00) IN EACH OF THE ELEVEN (11) CASES** and to suffer **PERMANENT DISQUALIFICATION TO HOLD OFFICE**.

SO ORDERED.¹⁴ (Emphases in the original)

The petitioner filed a Motion for Reconsideration, but the same was denied by the Sandiganbayan in a Resolution¹⁵ dated August 30, 2016, *viz.*:

WHEREFORE, the *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.¹⁶ (Emphases in the original)

Ruling of the Court

The Court finds no reason to disturb the findings of the Sandiganbayan in holding the petitioner liable in all 11 cases for violation of Section 2 of R.A. No. 6656.

Petitioner was in bad faith for removing 11 private respondents under the guise of a reorganization.

As it is the very policy of R.A. No. 6656 to protect the security of tenure of the employees, more so those belonging to the marginalized sector, their termination must be done in a legal and valid procedure. It has been settled that from the very start, however, the nature and extent of the power to reorganize were circumscribed by the source of the power itself. The grant of authority was accompanied by guidelines and limitations. It was never intended that department and agency heads would be vested with untrammelled and automatic authority to dismiss the millions of government workers on the stroke of a pen and with the same sweeping power,

¹³ Id. at 34-52.

¹⁴ Id. at 51.

¹⁵ Id. at 53-57.

¹⁶ Id. at 57.

Meyer

determine under their sole discretion who would be appointed or reappointed to the vacant positions.¹⁷

The Court finds the petitioner's act of seeking refuge behind the cloak of a reorganization of the City of Escalante in order to effect the removal of 11 employees as illegal, considering that it was only during the time of this change that the private complainants were removed.

In the case of *Gov. Aurora E. Cerilles v. Civil Service Commission, Anita Jangad-Chua, Ma. Eden S. Tagayuna, Meriam Campomanes, Bernadette P. Quirante, Ma. Delora P. Flores and Edgar Paran*,¹⁸ it was reiterated that R.A. No. 6656 was enacted to implement the State's policy of protecting the security of tenure of officers and employees in the civil service during the reorganization of government agencies.¹⁹ The pertinent provision of R.A. No. 6656 provides, thus:

No new employees shall be taken in until all permanent officers and employees have been appointed, including temporary and casual employees who possess the necessary qualification requirements, among which is the appropriate civil service eligibility, for permanent appointment to positions in the approved staffing pattern, in case there are still positions to be filled, unless such positions are policy-determining, primarily confidential or highly technical in nature.²⁰ (Emphasis Ours)

Further, the Court observes badges of bad faith on the part of the petitioner when he imputed incompetence and unfitness to work on the 11 terminated private complainants; hence, the disapproval of their applications for reassignment. If the petitioner and his Placement Committee insist on the non-qualification of these employees as a result of a series of evaluations and background checks, then why were these performance evaluations not conducted prior to the reorganization? The absence of a written evaluation report casts doubt on the legality of the removal procedure of these 11 employees.

If these private complainants have become burdens and liabilities to the City, the performance evaluations should have been conducted early on. To the Court's mind, the reorganization became an instrument of an illegal dismissal for the petitioner to show these 11 private complainants the exit door.

The prosecution presented 337 plantilla positions *vis-à-vis* the petitioner alleging only 191 positions available after the reorganization, showing a disparity of 146 available positions.

¹⁷ *Mendoza v. Hon. Quisumbing*, 264 Phil. 471, 493 (1990).

¹⁸ G.R. No. 180845, November 22, 2017.

¹⁹ *Id.*

²⁰ *Id.*



Whether the number of available positions numbered to 337 according to the private complainants, or 191 according to the petitioner, still, what the Court views is that 11 blue collar positions were sweepingly removed after the reorganization without any written record of employee assessments.

Petitioner failed to observe due process in removing the private complainants constituting violation of their right to security tenure.

As much as the Placement Committee is still tasked to have wide latitude of discretion to select and appoint employees pursuant to R.A. No. 6656, it is without the observance of procedural due process.

The Court perceives that the petitioner was in bad faith (a) when he failed to observe the “due notice” requirement of Section 2 of R.A. No. 6656; (b) when he failed to observe and ensure the observance of the requirements of order of separation, comparative assessment of qualifications and priority in appointment under Sections 3, 4, 5 and 6; and (c) when he allowed the unceremonious dropping from the payroll of the private complainants’ names.²¹

Prosecutor Padaca:

Q: You said in your letter May 7, 2002 that “we were informed that our employment with the City Government of Escalante was to be terminated because our positions were abolished.” My question is, who informed you?

A: One of my co-workers, ma’am.

Q: How did they inform you, in writing or (in) verbal?

A: Verbal, ma’am.

Pros. Padaca:

Q: You testified that you were dropped from the payroll, when was that?

A: First week of June 2002.

Q: When was the last time that you received your salary?

A: May 31, 2002.

Q: Who if any informed you that you will be dropped from the payroll?

A: No, ma’am.

²¹ Rollo, p. 205.

Meyer

Q: How did the management inform you that you would be dropped from the payroll?

A: During the first week of June when I went to get my salary, and I found out that my name is no longer listed in the payroll.

x x x x

Prosecutor Padaca:

Q: Mr. Witness, why did you file a letter appeal to the Civil Service Commission, Field Office?

A: We are all terminated and my name was no longer in the payroll.²²
(Citations omitted)

As correctly pointed out by the private complainants, prior notice is procedurally explained under Sections 10 and 15 of the Implementing Rules and Regulations of R.A. No. 6656, viz.:

Section 10. Notice and Hearing.

1. Officers and employees who upon evaluation and assessment will be laid off for any of the valid causes as provided for in these rules, shall be duly notified thereof and shall be given opportunity to present their side to assure utmost objectivity and impartiality. The hearing need not adhere to the technical rules in judicial proceedings.

x x x x

Section 15. Notice of Non-Appointment

Officers and employees laid off as a result of reorganization shall be given written notice at least thirty (30) days in advance of the effective date of the termination of their service.²³

Clearly, the petitioner failed to observe due process when the Placement Committee violated the constitutional rights of the 11 employees to security of tenure. The law is emphatic. Section 2 of R.A. No. 6656 cites certain circumstances showing bad faith in the removal of employees as a result of any reorganization:²⁴

Sec. 2. No officer or employee in the career service shall be removed except for a valid cause and after due notice and hearing. A valid cause for removal exists when, pursuant to a bona fide reorganization, a position has been abolished or rendered redundant or there is a need to merge, divide, or consolidate positions in order to meet the exigencies of the service, or other lawful causes allowed by the Civil Service Law. **The existence of any or some of the following circumstances may be considered as evidence of bad faith in the**

²² Id. at 206.

²³ Id. at 205, citing CSC Memorandum Circular No. 13, s. 1988.

²⁴ *Mayor Pan v. Peña*, 598 Phil. 781, 790-791 (2009).

Meyer

removals made as a result of reorganization, giving rise to a claim for reinstatement or reappointment by an aggrieved party:

- a) Where there is a significant increase in the number of positions in the new staffing pattern of the department or agency concerned;
- b) **Where an office is abolished and another performing substantially the same functions is created;**
- c) **Where incumbents are replaced by those *less qualified* in terms of status of appointment, performance and merit;**
- d) **Where there is a reclassification of offices in the department or agency concerned and the reclassified offices perform substantially the same function as the original offices;**
- e) Where the removal violates the order of separation provided in Section 3 hereof. (Emphasis, italics and underscoring Ours)

Moreover, Section 3 of the same law provides for the order of removal of employees as follows:

Sec. 3. In the separation of personnel pursuant to reorganization, the following order of removal shall be followed:

- (a) Casual employees with less than five (5) years of government service;
- (b) Casual employees with five (5) years or more of government service;
- (c) Employees holding temporary appointments; and
- (d) Employees holding permanent appointments: Provided, that those in the same category as enumerated above, who are least qualified in terms of performance and merit shall be laid first, length of service notwithstanding.

The Court notes that despite the CSC's ruling of reinstatement, the petitioner insisted on defying said order of reinstatement and placement of the 11 employees. Such act on the part of the petitioner absolutely violates the very spirit of R.A. No. 6656. Moreover, such disobedience is tantamount to bad faith.

It bears stressing that the petitioner in his Reply²⁵ takes refuge in the first paragraph of Section 4 of R.A. No. 6656, but the Court reminds the petitioner that the law must be read in its entirety, to wit:

Sec. 4. Officers and employees holding permanent appointments shall be given preference for appointment to the new positions in the approved staffing pattern comparable to their former positions or in case there are not enough comparable positions, to positions next lower in rank.

No new employees shall be taken until all permanent officers and employees have been appointed, including temporary and casual employees who possess the necessary qualification requirements, among

²⁵ Rollo, pp. 227.

Reyes

which is the appropriate civil service eligibility, for permanent appointment to positions in the approved staffing pattern, in case there are still positions to be filled, unless such positions are policy-determining, primarily confidential or highly technical in nature. (Emphasis and underscoring Ours)

Doctrine of qualified political agency makes the petitioner liable for violation of R.A. No. 6656.

Petitioner cannot feign ignorance nor claim that he was not part of the deliberations conducted on the 11 private complainants by the Placement Committee. The Court likewise cannot sustain the reasoning that he merely adopted the recommendations made by the said committee. Springing from the power of control is the doctrine of qualified political agency, wherein the acts of a subordinate bear the implied approval of his superior, unless actually disapproved by the latter.²⁶

Under Section 6 of R.A. No. 6656, a Placement Committee is created which would consist of two members appointed by the head of the department agency, a representative of the appointing authority, and two members duly elected by the employees holding positions in the first and second levels of the career service. Therefore, the petitioner cannot evade accountability by insisting he was not part of the evaluating team of the employees removed from service.

Petitioner was in bad faith in completely defying the ruling of the CSC to place the 11 employees in similar positions.

In countless occasions, the Court has ruled that the only function of the CSC is to ascertain whether the appointee possesses the minimum requirements under the law; if it is so, then the CSC has no choice but to attest to such appointment.²⁷

As stated earlier, ritual invocation of the abolition of an office is not sufficient to justify the termination of the services of an officer or employee in such abolished office. Abolition should be exercised in good faith, should not be for personal or political reasons, and cannot be implemented in a manner contrary to law. "Good faith, as a component of a reorganization under a constitutional regime, is judged from the facts of each case."²⁸

²⁶ *KBMBPM v. Hon. Dominguez*, 282 Phil. 105, 124 (1992).

²⁷ *Supra* note 18, citing *Lapinid v. Civil Service Commission*, 274 Phil. 381, 387-388 (1991).

²⁸ *Dario v. Mison*, 257 Phil. 84, 130-131 (1989).

Meyer

In the case of *Rama v. Court of Appeals*,²⁹ the Court held:

It is an undeniable fact that the dismissed employees who were holding such positions as foremen, watchmen and drivers, suffered the uncertainties of the unemployed when they were plucked out of their positions. That not all of them testified as to the extent of damages they sustained on account of their separation from their government jobs, cannot be used as a defense by the petitioners. Suffice it to state that considering the positions they were holding, the dismissed employees concerned belong to a low-salaried group, who, if deprived of wages would generally incur considerable economic hardships.³⁰

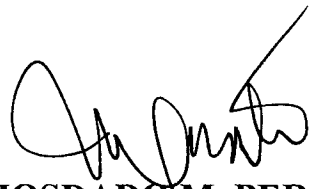
What transpired in the City of Escalante upon reorganization is similar to a mere window dressing as enunciated in the case of *Cruz, et al. v. Hon. Primicias, et al.*,³¹ as a “subterfuge resorted to for disguising an illegal removal of permanent civil service employees.”³² The employees are terminated without being given reasons for their dismissal. Only the appointing authority knows why employees are no longer reappointed.

WHEREFORE, premises considered, the Joint Decision dated April 30, 2015 and Resolution dated August 30, 2016 of the Sandiganbayan in Criminal Case Nos. SB-10-CRM-0244 to SB-10-CRM-0254, affirming petitioner Santiago G. Barcelona, Jr.’s conviction for eleven (11) counts of violation of Section 2 of Republic Act No. 6656, are hereby **AFFIRMED**.

SO ORDERED.


ANDRES B. REYES, JR.
Associate Justice

WE CONCUR:

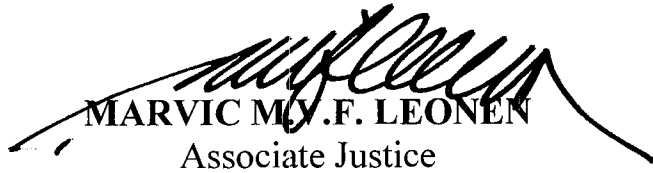

DIOSDADO M. PERALTA
Associate Justice
Chairperson

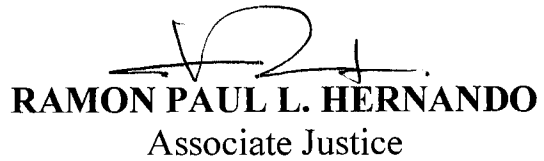
²⁹ 232 Phil. 461 (1987).

³⁰ Id. at 469.

³¹ 132 Phil. 467 (1968).

³² Id. at 472.

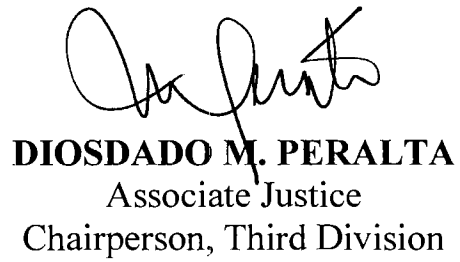

MARVIC M. F. LEONEN
 Associate Justice


RAMON PAUL L. HERNANDO
 Associate Justice


ROSMARI D. CARANDANG
 Associate Justice

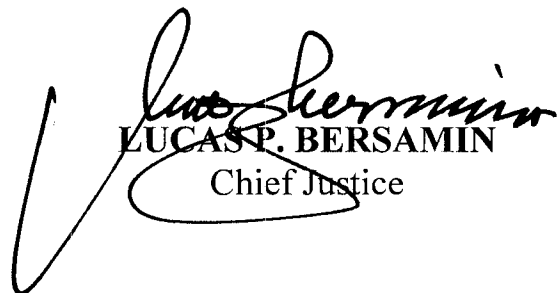
A T T E S T A T I O N

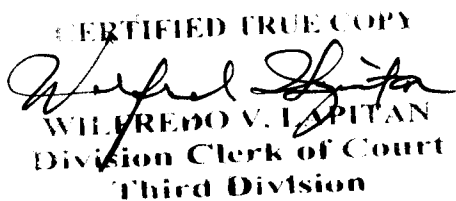
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
 Associate Justice
 Chairperson, Third Division

C E R T I F I C A T I O N

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.


LUCAS P. BERSAMIN
 Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

MAY 07 2019