



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

POLICE DIRECTOR GENERAL
RICARDO C. MARQUEZ, IN HIS
CAPACITY AS THE CHIEF OF
THE PHILIPPINE NATIONAL
POLICE (PNP) (IN LIEU OF
FORMER PNP OFFICER-IN-
CHARGE, POLICE DEPUTY
DIRECTOR GENERAL
LEONARDO A. ESPINA)
Petitioner,

G.R. No. 218534

Present:

LEONARDO-DE CASTRO, C.J.,
Chairperson,

BERSAMIN,
DEL CASTILLO,
JARDELEZA, and
TIJAM, JJ.

- versus -

PO2 ARNOLD P. MAYO,
Respondent,

Promulgated:

SEP 17 2018

X-----X

DECISION

TIJAM, J.:

The pivotal question to be resolved in this case is, whether the penalty of dismissal from the service against a police officer imposed by the Chief of the PNP is immediately executory, even when an appeal has been seasonably filed.

Before Us is a Petition for Review on *Certiorari*¹ (With Prayer for the Issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order), under Rule 45 of the Rules of Court filed by Police Director General Ricardo C. Marquez, as the Chief of the Philippine National Police (PNP),

¹ Rollo, pp. 12-31.

assailing the Decision² dated March 18, 2015 and the Order³ dated June 1, 2015 of the Regional Trial Court (RTC), Branch 32 of the City of Manila, in Civil Case No. 15-132998. The said Decision granted herein respondent PO2 Arnold P. Mayo's (PO2 Mayo) petition for injunction and declared as void Special Order (S.O.) No. 9999 of the PNP dismissing him from the service, effective October 11, 2013 for grave misconduct.

Factual Antecedents

The present controversy stemmed from a complaint filed by Annaliza F. Daguio (Annaliza) before the Office of the Chief, PNP, against the respondent for grave misconduct, docketed as NHQ-AC-363-011413 (DIDM-ADM-13-04). The complaint alleged that on January 25, 2012, at about 9:00 a.m., respondent PO2 Mayo, together with SPO3 Menalyn Turalba (SPO3 Turalba) who was in civilian attire, PO3 Jose Turalba (PO3 Jose), SPO3 Turalba's husband, and PO1 Elizalde Visaya (PO1 Visaya), went to Annaliza's iron workshop at No. 4 Daisy Street, Purok 6-C, Lower Bicutan, Taguig City, where they tried to dismantle a bomb wrapped in red cloth with the use of a pipe wrench, but failed to do so. SPO3 Turalba and Annaliza told respondent PO2 Mayo and the other officers to discontinue as it could cause the bomb to explode. The police officers then left but came back around 2:00 p.m. At this juncture, the police officers requested Cruzaldo Daguio (Cruzaldo), Annaliza's husband, to spot the bomb with a welding torch. Cruzaldo refused, saying that the bomb might explode, but the police officers persuaded him stating that it will not explode considering they are bomb experts. While Cruzaldo was spotting the tip of the bomb, it suddenly exploded, killing Cruzaldo and PO1 Visaya on the spot and wounding nine (9) civilians.⁴ Respondent PO2 Mayo, PO3 Jose, and Liza Q. Grimaldo (Grimaldo) were rushed to the hospital but PO3 Jose and Grimaldo were pronounced dead on arrival. Furthermore, various properties were destroyed.⁵

Respondent PO2 Mayo failed to file his answer or counter-affidavit despite having been served with summons and Notices of Pre-Hearing Conference at his office at the PNP Special Action Force (SAF).

In a Decision⁶ dated October 11, 2013, Police Director General Alan La Madrid Purisima, then Chief of the PNP, found respondent PO2 Mayo guilty of grave misconduct and imposed the extreme penalty of dismissal from the PNP service, aggravated by taking advantage of his official

² Penned by Presiding Judge Thelma Bunyi-Medina; id. at 35-43.

³ Id. at 44.

⁴ May F. Mendizabal, Angelica Leah Paz M. Coven, Jorelle Lance B. Lariosa, Olive R. Birion, Annalyn D. Aquino, Ronalyn N. Ben-Ben, Aaron N. Aquino, Romeo P. Tagono, Jr., and Keniefielda Mabilog. As stated in the Decision dated October 11, 2013 of the Office of the Chief, PNP; id at 45.

⁵ Id. at 14-15 and 45-46.

⁶ Id. at 45-46.



position as a member of the Explosive Ordnance Disposal of the SAF, and that the incident happened during office hours.

Respondent PO2 Mayo filed a Motion for Reconsideration on January 2, 2014, arguing that: he was denied due process and was not given an opportunity to present his evidence; he was not given a chance to answer the accusations hurled against him; and to have a fair trial. He also argued that the Chief of the PNP had no jurisdiction over the case under the “Principle of Exclusivity”, as the first disciplinary authority to acquire jurisdiction was the Internal Affairs Service (IAS) of the SAF.⁷

In a Resolution⁸ dated November 26, 2014, respondent’s motion for reconsideration was denied. The Office of the Chief, PNP, found no merit in the allegation of denial of due process, stating that respondent was duly notified of the proceedings as he was served with summons and notices, but still failed to file his answer or counter-affidavit. Furthermore, the “Principle of Exclusivity” does not apply in this case as the IAS is not a disciplinary authority.⁹ Undaunted, respondent lodged an appeal before the National Police Commission (NAPOLCOM) National Appellate Board on January 27, 2015, seeking the reversal of the Decision and the Resolution of the Office of the Chief, PNP.¹⁰

Meanwhile, pursuant to the Decision dated October 11, 2013 and the Resolution dated November 26, 2014, the PNP issued S.O. No. 9999¹¹ dated December 29, 2014, dismissing respondent PO2 Mayo from the service effective October 11, 2013. Respondent PO2 Mayo alleged that he only became aware of the said SO on January 30, 2015 when he was not allowed to have his PNP identification card renewed, due to problems with the administrative case against him.¹² As the said SO was about to be implemented, respondent PO2 Mayo filed a Petition¹³ for Injunction with Prayer for the Issuance of Temporary Restraining Order and Writ of Preliminary Injunction before the RTC of the City of Manila. The case was raffled to Branch 32 and was docketed as Civil Case No. 15-132998.

Respondent PO2 Mayo argued that the SO was void as the Decision dated October 11, 2013 was not yet final and executory and he has still a pending appeal before the NAPOLCOM National Appellate Board. He further argued that it was in violation of the provisions of NAPOLCOM Memorandum Circular No. 2007-001 (NMC No. 2007-001) which provides

⁷ Id. at 47.

⁸ Id. at 47-48.


⁹ Id. at 47.

¹⁰ Id. at 50-62.

¹¹ Id. at 49.

¹² As alleged by respondent PO2 Mayo in his Petition for Injunction with Prayer for the Issuance of Temporary Restraining Order and Writ of Preliminary Injunction filed before the Regional Trial Court of City of Manila, Id. at 65.

¹³ Id. at 63-69.



that the filing of a motion for reconsideration or an appeal shall stay the execution of the disciplinary action sought to be reconsidered.¹⁴

The RTC issued an Order¹⁵ dated February 9, 2015, granting respondent PO2 Mayo's application for the issuance of a temporary restraining order (TRO) pending resolution of the main action for injunction. The PNP, through the Office of the Solicitor General (OSG), then filed a Motion for Reconsideration of the RTC Order, which was denied by the RTC in its Order¹⁶ dated March 3, 2015. Subsequently, the RTC rendered its Decision in the main case dated March 18, 2015, granting respondent's petition for injunction and declaring S.O. No. 9999 void. The dispositive portion of the said Decision reads:

WHEREFORE, judgment is hereby rendered granting the instant petition for injunction and declaring Special Order No. 9999 as void.

SO ORDERED.¹⁷

In its Decision in favor of herein respondent, the RTC ruled in this wise:

At this juncture, this court finds it apt to quote Section 45 of the Republic Act No. 6975 cited by the respondents to bolster their claims, thus:

*Section 45. 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 regional director or by the 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 decision; Provided, further, That the disciplinary action imposed by the Chief of the PNP involving demotion or dismissal may be appealed to the National Appellate Board within ten (10) days from receipt thereof; Provided, furthermore, That the Regional or National Appellate Board, as the case may be, shall decide the appeal within sixty days from receipt of the notice of appeal: Provided, finally, **That failure of the Regional Appellate Board to act on the appeal within the said period shall render the decision final and executory, without prejudice**, however, to the filing of an appeal by either party with the Secretary. (underscoring and emphasis supplied)*

It is true that the initial provision of the foregoing rule indicates that disciplinary action involving demotion or dismissal imposed upon a

¹⁴ *Rollo*, p. 66.

¹⁵ *Id.* at 70-76.

¹⁶ *Id.* at 100.

¹⁷ *Id.* at 43.

member of the PNP shall be final and executory. However, it is crystal clear from its provisos that the final and executory nature of the decision/order/resolution assumes a different character when an appeal is filed with the appellate board. This interpretation can reasonably be inferred from the provision that failure of the appellate board to act on the appeal within the period sixty (60) days from receipt of the notice of appeal shall render the decision final and executory.

If the meaning ascribed by the respondents to the rules is to be taken, this question begs answer [sic]: why is there a need for a declaration in the law that the disciplinary action shall become final and executory if the appellate board failed to act on the appeal within the given period if, in the first place, the same (decision) is already final and executory [sic].

Palpably, the disciplinary action involving demotion or dismissal embodied in the decision/order/resolution shall not be immediately executory by the mere fact of its rendition because it shall only be so if no motion for reconsideration or appeal is filed AND if appeal was taken and it was not acted upon within the given period.

Thus, an appeal with the appellate board, under the foregoing rule, should stay execution of the assailed decision/order/resolution unless it was not acted upon by the appellate board within the period of sixty (60) days.

Further, while it is also true that under the provision of Section 23, Rule 17, Part II of Napolcom Memorandum Circular (NMC) 2007-001 it is provided that "the filing of a motion for reconsideration shall stay the execution of the disciplinary action sought to be reconsidered", this provision, by its very wordings and taken in the light of the other provisions of this law, does not give exclusivity to the filing of motion for reconsideration as the only mode by which the assailed decision could be stayed.

To give emphasis, it is apropos to quote Section 23, Rule 17, Part II of NMC 2007-001, viz:

Section 23. Motion for Reconsideration. - The party adversely affected may file a motion for reconsideration from the decision rendered by the disciplinary authority within ten (10) days from receipt of a copy of the decision on the following grounds:

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The filing of a motion for reconsideration shall stay the execution of disciplinary action sought to be reconsidered. Only one (1) motion for reconsideration shall be allowed and the same shall be considered and decided by the disciplinary authority within fifteen (15) days from receipt thereof.

Notable in the aforementioned rule is the absence of limiting words or terms which would consider the filing of a motion for reconsideration as the only remedy which could stay the execution of the disciplinary action.

It is also important to give emphasis to the following provisions of NMC 2007-001 to unearth the real intendment of the rules:

1. Section 1 (e) - There is finality of Decision when upon the lapse of ten (10) days from receipt, or notice of such decision, no motion for reconsideration or APPEAL has been filed in accordance with these Rules;

II. Section 24, Certificate of Finality. - The disciplinary authority or appellate body shall issue a certificate of finality of the decision or resolution finally disposing of the case when no motion for reconsideration or APPEAL is filed within the prescribed period.

Verily, to ascribe merit to respondents' contention that the disciplinary action involving demotion or dismissal to a member of the PNP is final and executory will definitely run counter to the aforementioned rules which emphatically declare that the decision shall only become final and, thus, executory, when upon the lapse of the ten (10) days from receipt, or notice of such decision, no motion for reconsideration or APPEAL has been filed.

Thus, it is fitting to enunciate, at this point, the doctrinal principle that "a law must be read in its entirety and no single provision should be interpreted in isolation with respect to the other provisions of the law."

To reiterate, this court, guided by the existing rules and jurisprudence on the matter, finds that the appeal interposed by the petitioner with the National Appellate Board stayed the decision and resolution rendered by the Chief of the PNP dismissing him from the service.

Perforce, the Special order No. 9999 issued by Police Deputy Director General Marcelo Poyaoan Garbo, Jr., PNP, dismissing the petitioner from the PNP service effective October 11, 2013 should be declared void considering that the decision of even date rendered by the Chief PNP is not yet final and executory.¹⁸

The PNP sought reconsideration of the said Decision but its Motion for Reconsideration dated April 16, 2015 was denied in an Order dated June 1, 2015, finding no cogent reason for the Court to disturb or set aside its findings in its Decision.¹⁹ Hence, the PNP interposed the present Petition for Review on *Certiorari* before this Court raising a pure question of law.

¹⁸ Id. at 39-42.

¹⁹ Id. at 44.

Ruling of the Court

As aptly raised by herein petitioner, the sole issue to be resolved by this Court is, whether S.O. No. 9999, which imposes upon herein respondent the penalty of dismissal from the service, pursuant to the Decision dated October 11, 2013 and the Resolution dated November 26, 2014 of the Office of the Chief, PNP, is immediately executory, pending respondent's appeal with the NAPOLCOM National Appellate Board.

Preliminarily, the Court notes that NAPOLCOM Memorandum Circular (M.C.) No. 2007-001 has been repealed by NAPOLCOM M.C. No. 2016-002.²⁰ Nevertheless, We shall continue to apply the provisions of NMC No. 2007-001, as this was the prevailing rule during the pendency and resolution of the present case.

Petitioner argues that the RTC erred in holding that S.O. No. 9999 is void, for the following reasons: (1) there is nothing in Section 45, Republic Act (R.A.) No. 6975, as amended, that states that the failure of the National Appellate Board to act on the appeal within 60 days shall render the decision final and executory; (2) NAPOLCOM MC No. 2007-001 is clear that only the filing of a motion for reconsideration shall stay the execution of the disciplinary action sought to be reconsidered; (3) PNP Circular No. 2008-013 allows execution of S.O. No. 9999, dismissing PO2 Mayo from the police service pending the latter's appeal with the National Appellate Board.

Respondent PO2 Mayo, in his Comment/Opposition,²¹ argued that the instant petition has been rendered moot and academic by the subsequent issuance of S.O. No. 2158 which cancelled S.O. No. 9999. Moreover, by the issuance of said S.O. No. 2158, respondent argues that petitioner is estopped from arguing for the validity and implementation of S.O. No. 9999 considering that, it was also the one who caused its cancellation. Furthermore, he reiterates his argument that under NMC Circular No. 2007-001 in relation to PNP Circular No. 2008-013, decisions, orders or resolutions of PNP disciplinary authorities may only be implemented upon issuance of a certificate of finality, finally disposing of the case when there is no motion for reconsideration or appeal filed within the prescribed period.

The Court finds no merit in respondent PO2 Mayo's assertion that the case has been rendered moot, and that the petitioner is estopped from asserting the validity of S.O. No. 9999, by the subsequent issuance of S.O. No. 2158 dated March 23, 2015, which cancelled his dismissal from the

²⁰ Rule 24, Section 1. Repealing Clause. - Memorandum Circular Numbers 93-024, 96-010, 98-014, 99-006, 99-014, 2002-010, 2002-013 and 2007-001 are repealed. All other NAPOLCOM issuances or portions thereof inconsistent with this Memorandum Circular are hereby superseded or modified accordingly.

²¹ *Rollo*, pp. 109-120.

service. A reading of S.O. No. 2158 reveals that the cancellation of respondent's dismissal from the service, was primarily because of the injunction issued by the RTC. Petitioner cannot be faulted for doing so, considering that judgments in actions for injunction are executory even pending appeal²², and implementing respondent's dismissal which was enjoined by the court could have made them liable for indirect contempt.

Before We discuss the main issue at hand, this Court also takes the opportunity to correct the pronouncement made by the RTC that an appeal with the appellate board shall stay execution of the decision, order, or resolution, unless it was not acted upon within a period of sixty (60) days. Under Section 45 of R.A. No. 6975, the last proviso only pertains to the Regional Appellate Board (RAB). It is not applicable in the present case considering that respondent filed his appeal of the Decision and Resolution of the Chief of the PNP before the NAPOLCOM National Appellate Board (NAB), and not the RAB.

The Decision and Resolution of the Chief of the PNP is not immediately executory

This Court rejects the position of the petitioner that the Decision and the Resolution of the Chief of the PNP is immediately executory, pending respondent's PO2 Mayo's appeal before the NAB. Nevertheless, supervening events compels this Court to reverse the judgment of the RTC, and dissolve the writ of injunction it issued as will be explained below.

The provision of law governing the finality of disciplinary actions against police officers is Sec. 45 of R.A. No. 6975, as amended, also known as the Department of Interior and Local Government Act of 1990, to wit:

Section. 45. *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 regional director or by the 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 decision: *Provided, further*, That the disciplinary action imposed by the Chief of the PNP involving demotion or dismissal may be appealed to the National Appellate Board within ten (10) days from receipt thereof: *Provided, furthermore*, The regional or National Appellate Board, as the case may be, shall decide the appeal

²² Rule 39, Sec. 4. Judgments not stayed by appeal. **Judgments in actions for injunction, receivership, accounting and support, and such other judgments as are now or may hereafter be declared to be immediately executory, shall be enforceable after their rendition and shall not be stayed by an appeal taken therefrom, unless otherwise ordered by the trial court.** On appeal therefrom, the appellate court in its discretion may make an order suspending, modifying, restoring or granting the injunction, receivership, accounting, or award of support.

The stay of execution shall be upon such terms as to bond or otherwise as may be considered proper for the security or protection of the rights of the adverse party. (Emphasis supplied)

within sixty (60) days from receipt of the notice of appeal: *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.

The same provision is reproduced in Rule 17, Section 22 of NAPOLCOM MC No. 2007-001:

Section 22. *Finality of Decision.* – The disciplinary action imposed upon a member of the PNP shall be final and executory: Provided, that a disciplinary action imposed by the regional director or by the 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 decision: Provided, further, that the disciplinary action imposed by the Chief of the PNP involving demotion or dismissal may be appealed to the National Appellate Board within ten (10) days from receipt thereof: Provided, furthermore, that the Regional or National Appellate Board, as the case may be, shall decide the appeal within sixty (60) days from receipt of the notice of appeal: Provided, finally, that the decisions of the National Appellate Board and Regional Appellate Board may be appealed to the Secretary of the Interior and Local Government.

In the *National Appellate Board (NAB) of the National Police Commission (NAPOLCOM) v. P/Inp. John A. Mamaug*,²³ this Court held that Section 45 of R.A. No. 6975, as amended, provides that a disciplinary action imposed upon a member of the PNP shall be final and executory, and disciplinary actions are appealable only if it involves either a demotion or dismissal from the service. The second proviso which renders disciplinary actions involving demotion or dismissal from the service imposed by the Chief of the PNP qualifies the general statement that disciplinary actions imposed upon a member of the PNP is final and executory. Petitioner's contention that only a motion for reconsideration can stay the execution of a disciplinary action is misplaced. As correctly held by the RTC, the wording of Rule 17, Section 23²⁴ of NAPOLCOM MC No. 2007-001 that "the filing of a motion for reconsideration shall stay the execution of the disciplinary action sought to be reconsidered", does not foreclose other modes of staying the execution of a disciplinary action. As a general rule, only judgments

²³ 504 Phil. 186 (2005).

²⁴ Rule 17, Sec. 23. Motion for Reconsideration. - The party adversely affected may file a motion for reconsideration from the decision rendered by the disciplinary authority within ten (10) days from receipt of a copy of the decision on the following grounds:

- a) Newly discovered evidence which, if presented, would materially affect the decision rendered;
- or
- b) Errors of law or irregularities have been committed prejudicial to the substantial rights and interest of the movant.

The filing of a motion for reconsideration shall stay the execution of the disciplinary action sought to be reconsidered. Only one (1) motion for reconsideration shall be allowed and the same shall be considered and decided by the disciplinary authority within fifteen (15) days from receipt thereof.

which have become final can be executed. Executions pending appeal are exceptions to the general rule, and as such, must be strictly construed.²⁵ While these principles are applicable to execution of judgments under the Rules of Court, this Court finds the same applicable to the present case considering that the Rules of Court are suppletorily applicable by express provision of NAPOLCOM MC No. 2007-001.²⁶ Thus, the fact that disciplinary actions imposed by the Chief of the PNP involving demotion or dismissal may be appealed to the NAB, which only renders the same not immediately final, but also not immediately executory when an appeal has been seasonably filed with the NAB.

This Court is aware of its pronouncement in *Jenny Zacarias v. National Police Commission*²⁷ that summary dismissals from the service imposed by the Chief of the PNP under Section 42²⁸ of R.A. 6975, as amended, are immediately executory. The ruling in *Zacarias*, however, was based on NAPOLCOM MC No. 92-006, which expressly provided for the immediately executory nature of the decisions of the PNP summary dismissal authorities which includes the Chief of the PNP.²⁹ NAPOLCOM MC No. 92-006 was amended by NAPOLCOM MC No. 94-021,³⁰ and both MCs were repealed by NAPOLCOM MC No. 96-010.³¹ NAPOLCOM MC

²⁵ *Planters Products, Inc. v. Court of Appeals*, 375 Phil. 615 (1999), citing *City of Manila v. Court of Appeals*, 281 Phil. 408 (1991).

²⁶ Rule 1, Sec 4. *Nature of Proceedings*. -- The investigation and hearing before the administrative disciplinary authorities and the IAS shall be summary in nature and shall not strictly adhere to the technical rules of procedure and evidence applicable in judicial proceedings. **The provisions of the Civil Service Law, Rules and Regulations as well as the Revised Rules of Court shall be suppletorily applicable.** (Emphasis supplied)

²⁷ 460 Phil. 555 (2003).

²⁸ Section 42. *Summary Dismissal Powers of the PNP Chief and Regional Directors*. -- The National Police Commission, the Chief of the PNP and regional directors, after due notice and summary hearings, may immediately remove or dismiss any respondent PNP member in any of the following cases:

- (a) When the charge is serious and the evidence of guilt is strong;
- (b) When the respondent is a recidivist or has been repeatedly charged and there are reasonable grounds to believe that he is guilty of the charges; and
- (c) When the respondent is guilty of conduct unbecoming of a police officer.

Any member or officer of the PNP who shall go on absence without official leave (AWOL) for a continuous period of thirty (30) days or more shall be dismissed immediately from the service. His activities and whereabouts during the period shall be investigated and if found to have committed a crime, he shall be prosecuted accordingly.

²⁹ Rule II, Section 8 of NAPOLCOM MC No. 92-006 provides: Finality of Decision/Resolution. -- The decision of the PNP Summary Dismissal Authorities imposing upon respondent a penalty of dismissal from the service shall be immediately executory. However, in the event that the respondent is exonerated on appeal, he shall be considered as having been under suspension during the pendency of the appeal, with entitlement to back salaries and allowances.

³⁰ Rule IV, Section I Repealing Clause -- Memorandum Circular No. 92-006 series of 1992 and amended Circular No. 94-021 series of 1994 and all rules and regulations and other issuances, or portions thereof, inconsistent with this Memorandum Circular are hereby repealed or modified accordingly.

³¹ Part H, Section I Repealing Clause -- Memorandum Circular No. 92-006 series of 1992 as amended by Memorandum Circular No. 94-021 and Circular No. 94-022 series of 1994 and all rules and regulations and other issuances, or portions thereof, inconsistent with this Memorandum Circular are hereby repealed or modified accordingly.

No. 96-010 was, in turn, repealed by NAPOLCOM MC No. 2007-001.³² Unlike the previous MCs, NAPOLCOM MC No. 2007-001 and the subsequent NAPOLCOM MC No. 2016-002 do not expressly provide for immediately executory nature of the decisions of the PNP summary dismissal authorities.

***Dismissal of Respondent's Appeal
before the Secretary of the Department
of Interior and Local Government
is executory pending appeal***

The Court notes the petitioner's Manifestation and Motion³³ dated August 11, 2017, stating that, in an Order dated February 10, 2017, the Office of the Secretary of the Department of Interior and Local Government (DILG) has dismissed respondent's PO2 Mayo's Appeal Memorandum. Said DILG Order assailed the Decision dated November 5, 2015 and the Resolution dated June 17, 2016 of the NAPOLCOM National Appellate Board which **affirmed the Decision dated October 11, 2013 and the Resolution dated November 26, 2014 of the Office of the Chief, PNP.**³⁴ DILG Secretary Ismael D. Sueno denied herein respondent's PO2 Mayo's appeal for the latter's failure to file a Notice of Appeal before the NAPOLCOM National Appellate Board.³⁵ Furthermore, in another Manifestation and Motion³⁶ dated February 5, 2018, herein petitioner stated that DILG Officer-in-Charge Catalino S. Cuy has denied respondent PO2 Mayo's Motion for Reconsideration of the Order dated February 10, 2017, in an Order dated October 30, 2017.³⁷

By dismissing respondent's PO2 Mayo's appeal, the Secretary of the DILG, in effect, confirmed respondent's PO2 Mayo's dismissal from the service. Such dismissal from the service is executory, pursuant to Section 47 of Book V, Executive Order (E.O.) No. 292, or the Administrative Code of 1987. This provision of the Civil Service laws is also applicable to the PNP,³⁸ which states:

Sec. 47. Disciplinary Jurisdiction. –

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³² Rule 24, Section 1 . Repealing Clause. - Memorandum Circular Numbers 93-024, 96-010, 98-014, 99-006, 99-014, 2002-010, 2002-013 are repealed. All other NAPOLCOM issuances or portions thereof inconsistent with this Memorandum Circular are hereby superseded or modified accordingly.

³³ *Rollo*, pp. 168-169.

³⁴ *Id.*

³⁵ *Id.* at 174-175.

³⁶ *Id.* at 177-178.

³⁷ *Id.* at 183-185.

³⁸ Section 91 of R.A. No. 6975 provides: *Application of Civil Service Laws*. The Civil Service Law and its implementing rules and regulations shall apply to all personnel of the Department.



(2) The Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days' salary. **In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department and finally to the Commission and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.**

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(4) An appeal shall not stop the decision from being executory, and in case the penalty is suspension or removal, the respondent shall be considered as having been under preventive suspension during the pendency of the appeal in the event he wins an appeal. (Emphasis supplied)

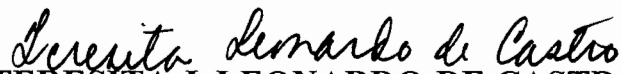
With respondent PO2 Mayo's appeal already resolved unfavorably, and such resolution being executory, this Court finds no impediment in reversing the Decision and the Resolution of the RTC and lifting the injunction that it issued.

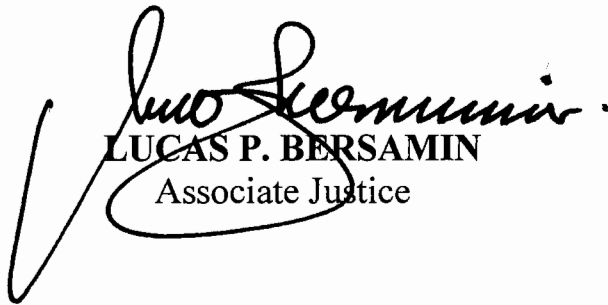
WHEREFORE, the petition is **GRANTED**. The Decision dated March 18, 2015 and the Order dated June 1, 2015 of the Regional Trial Court, Branch 32 of the City of Manila are hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Chief Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



FRANCIS H. JARDELEZA
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.



TERESITA J. LEONARDO-DE CASTRO
Chief Justice