



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

CIVIL SERVICE COMMISSION,
Petitioner,

G.R. No. 232168

Present:

— *versus* —

**JEJOMAR ERWIN S. BINAY,
JR. and GERARDO KANGLEON
SAN GABRIEL,**
Respondents.

LEONEN, *SAJ.*,
Chairperson,
INTING*,
LOPEZ, M.,
LOPEZ, J., *and*
KHO, JR., *JJ.*

Promulgated:

OCT 17 2022

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D E C I S I O N

LOPEZ, M., J.:

The validity of appointment in a local government position is the core issue in the Petition for Review on *Certiorari* before this Court, assailing the Court of Appeals (CA) Decision dated November 29, 2016 in CA-G.R. SP No. 140570.¹

ANTECEDENTS

* Designated additional member *per* Raffle dated September 6, 2022, on official leave. Lazaro-Javier, J. no part due to prior action in the Court of Appeals.

¹ *Rollo*, pp. 42–61.

J

On October 1, 2012, Makati City Mayor Jejomar Erwin Binay, Jr. (Mayor Binay) appointed Gerardo Kangleon San Gabriel (San Gabriel) as Makati City Government Department Head II at the General Services Department. In a Letter dated February 25, 2013, the Civil Service Commission-National Capital Region (CSC-NCR) invalidated the appointment because San Gabriel is a resident of Quezon City at the time of his appointment. Moreover, San Gabriel failed to meet the minimum educational requirements under Republic Act (RA) No. 7160 or the Local Government Code of 1991,² thus:

Section 490(a), Article XX, Title V, Chapter III, Book III of Republic Act No. 7160 x x x provides for the following qualification requirements for appointment to the position of General Service Officer (SG 26):

“(a) No person shall be appointed general services officer unless he is a citizen of the Philippines, **a resident of the local government unit concerned**, of good moral character, **a holder of a college degree on public administration, business administration and management** from recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in general services, including management of supply, property, solid waste disposal, and general sanitation, of at least five (5) years in the case of the provincial or city general services officer, and at least three (3) years in the case of the municipal general services officer.”

A comparative evaluation of the qualifications of San Gabriel as indicated in his Personal Data Sheet (PDS) accomplished on August 28, 2012 vis-à-vis the qualification standards for City General Services Officer shows that he does not meet the education and residency requirements prescribed under Section 490(a) of RA 7160.

In view thereof, the permanent (promotion) appointment of Gerardo Kangleon San Gabriel as City Government Department Head II (SG-26) at the General Services Department, City Government of Makati effective October 1, 2012 is hereby **invalidated**. (Emphases supplied)

On May 30, 2014, Makati City Personnel Officer Vissia Marie Aldon (Aldon) filed a motion for reconsideration. The CSC-NCR treated the motion as an appeal and referred the matter to the CSC proper for appropriate action. On January 13, 2015, the CSC dismissed the appeal because Aldon has no legal personality to challenge the disapproval of the appointment.³ The real parties in interest are limited only to the appointing authority and the appointee, to wit:

Pertinent to the instant case is Section 2, Rule VI of Civil Service Commission (CSC) Memorandum Circular (MC) No. 40, s. 1998 (Revised Omnibus Rules on Appointments and Other Personnel Actions), which provides, as follows:

“*Sec. 2. Request for reconsideration of, or appeal from, the*

² *Id.* at 108-109.

³ *Id.* at 110-112.

disapproval of an appointment may be made by the appointing authority and submitted to the Commission within fifteen (15) calendar days from receipt of the disapproved appointment."

Corollarily, in the case of *Abella vs. Civil Service Commission* (G.R. No. 152574, November 17, 2004), **the Supreme Court ruled that both the appointing authority and the appointee are equally real parties in interest who have the requisite legal standing to bring an action challenging a CSC disapproval of an appointment.** x x x

Based on the foregoing, the High Tribunal expressly stated that **only the appointing authority and the appointee may file an appeal from an invalidation or disapproval of an appointment by the CSC**, they being the real parties in interest. **In this case, however, the subject petition was filed not by Mayor Binay, who is the appointing authority, nor by San Gabriel as the appointee, but by Aldon, who is the City Personnel Officer of the City Government of Makati. Records are also bereft of any evidence indicating that Aldon was authorized by Mayor Binay to file said petition. Such being the case, the instant petition should be dismissed on the ground that Aldon has no legal personality to file the same.**

WHEREFORE, the motion for reconsideration (treated as a Petition for Review) of Vissia Marie P. Aldon, City Personnel Officer, City Government of Makati, is hereby **DISMISSED** for lack of legal personality. Accordingly, the Letter dated February 25, 2013 of Director Lydia Alba-Castillo x x x invalidating the permanent (promotion) appointment of Gerardo K. San Gabriel xxx for failure to meet the education and residency requirements x x x **STANDS.**⁴ (Emphases supplied)

This time, Mayor Binay sought reconsideration arguing that he authorized Aldon to question the disapproval of San Gabriel's appointment.⁵ As supporting evidence, Mayor Binay submitted an Indorsement dated February 10, 2015,⁶ viz.:

1st Indorsement
February 10, 2015

Respectfully forwarded to **Ms. VISSIA MARIE P. ALDON**, City Personnel Officer, the herein attached Notice of Decision from the Civil Service Commission dated January 13, 2015 invalidating the appointment of Mr. GERARDO K. SAN GABRIEL, City General Services Officer.

Same is forwarded directing her to file the appropriate motion for reconsideration or appeal to the Civil Service Commission relative to the said decision.

JEJOMAR ERWIN S. BINAY, JR.
Mayor

⁴ *Id.* at 117-119.

⁵ *Id.* at 120-123.

⁶ *Id.* at 126.

Mayor Binay likewise averred that San Gabriel met the residency requirement because he lived at A-Venue Residences Tower 1, 7829 General Luna corner Salamanca Streets, Barangay Poblacion, Makati City. The townhouse unit in Quezon City belongs to San Gabriel's sister Melinda Ochoco.⁷ Also, San Gabriel satisfied the education requirement for the position of City Government Department Head. San Gabriel studied economics, project development and design, supply chain management for industrial and service systems, operations research, management accounting, macroeconomic theory and policy, safety and health management, and other various courses that are essentially administration-oriented and managerial in nature.⁸

On April 10, 2015, the CSC denied the motion, thus:

Hence, inasmuch as Mayor Binay failed to present any new evidence which may warrant the reversal or modification of the questioned decision, the instant motion should therefore, be denied. x x x

WHEREFORE, the motion for reconsideration of Mayor Jejomar Erwin S. Binay, Jr., City Government of Makati, is hereby DENIED. Accordingly, CSC Decision No. 15-0012 dated January 13, 2015, STANDS.⁹

Dissatisfied, Mayor Binay and San Gabriel elevated the case to the CA through a Petition for Review docketed as CA-G.R. SP No. 140570. On November 29, 2016, the CA granted the Petition and reversed the CSC's findings,¹⁰ to wit:

Here, Aldon, as City Personnel Officer and head of the Human Resources Development Office of Makati City, is deemed to have acted on behalf of Mayor Binay, Jr. as appointing authority, when she sought for a reconsideration of the invalidation of San Gabriel's promotional appointment as City General Services Officer II. x x x

Being empowered to enforce civil service laws, rules and regulations, relative to personnel actions, and liaise with the CSC, Aldon had the authority and power to act on behalf of Mayor Binay, Jr. in seeking reconsideration of the invalidation of San Gabriel's promotional appointment.

x x x x

x x x it is true that San Gabriel is a resident of Makati City, particularly at Unit 21 N. A Venue Residences Tower 1, 7829 General Luna corner Salamanca Streets, Barangay Poblacion, Makati City. This is duly established by phone bills and condominium bills. x x x

The CSC, nonetheless maintained, that San Gabriel is a resident of Quezon City and not of Makati City and that he cannot take a second

⁷ *Id.* at 122.

⁸ *Id.* at 122-123.

⁹ *Id.* at 149-150.

¹⁰ *Id.* at 69-94. The Decision was rendered by the Ninth Division and penned by Associate Justice Amy C. Lazaro-Javier (now a member of this Court) with the concurrence of Associate Justices Celia C. Librea-Leagogo and Melchor Q. C. Sadang.

residence. In sum, the CSC argues that San Gabriel cannot have a second residence at the same time based on the concept of “domicile”.

We are not persuaded. To stress, “residence” is only equated with “domicile” under election laws. x x x

As stated in *Saludo [v. American Express International, Inc.]*, the term “residence” signifies physical presence in a place and actual stay thereat. In this popular sense, the term means merely residence, that is, personal residence, not legal residence or domicile. Residence simply requires bodily presence as an inhabitant in a given place, while domicile requires bodily presence in that place and also an intention to make it one's domicile. Verily, San Gabriel is a resident of Makati City.

x x x x

Going now to the educational qualification for the post of a city general services officer, the law provides that one must be “a holder of degree on public administration and management from a recognized college or university, and a first grade civil service eligible or its equivalent [.]”

Here, San Gabriel has a Bachelor of Science in Industrial Engineering from the University of the Philippines – Diliman. His transcript of records shows that he took up subjects in industrial organization and management, production management, management accounting, managerial cost accounting and control, and other subjects. Even though his academic training may not pointedly conform with the requirements of the law, the same may be offset by his experience as per his service record. The same record shows that he had the following stints:

- a) Metro Manila Commission, from 1978 to 1989: Senior Project Evaluation Officer, Division Chief, Supervising Development Project, Supervising Inspector, Assistant Supervising Supply Officer.
- b) Metropolitan Manila Authority, from 1989 to 1994: Supply Officer IV, Supply Officer V.
- c) Metropolitan Manila Development Authority from 1995 to 2007: Supply Officer V.
- d) City of Makati's Internal Management Control Office from 2007 to 2012. Assistant Department Head II.

x x x x

Verily, San Gabriel has had enough experience to intimately know the City of Makati's needs when it comes to general services and sufficient know-how in addressing the same. Indubitably, he is qualified to assume the post of City General Services Officer II. x x x

x x x x

ACCORDINGLY, the petition is GRANTED. The assailed Decision No. 150012 dated January 13, 2015 and Resolution No. 1500462 dated



April 10, 2015 are REVERSED and SET ASIDE. Petitioner Gerardo Kangleon San Gabriel's appointment as CITY GOVERNMENT DEPARTMENT HEAD II (SG-26) is AFFIRMED.

SO ORDERED.¹¹

The CSC sought reconsideration but was denied. Hence, the Petition before this Court. The CSC contends that Aldon is not a real party in interest as she is neither the appointee nor the appointing authority. As such, the CSC-NCR's Letter dated February 25, 2013 invalidating San Gabriel's appointment attained finality after 15 days from notice absent a timely and proper appeal. At any rate, San Gabriel failed to satisfy the requirements for the position of City Government Department Head.

RULING

The Petition is meritorious.

The CSC is the central personnel agency of the government mandated to ensure that appointments in the civil service are generally made on the basis of merit and fitness. The CSC is tasked to strengthen the merit and rewards system in the civil service by administering and enforcing the constitutional and statutory provisions on the merit system for all levels and ranks in the civil service.¹² In approving or disapproving an appointment, the CSC examines the conformity of the appointment with applicable provisions of law and whether the appointee possesses all the minimum qualifications and none of the disqualifications. Relatively, the Revised Rules on Administrative Cases in the Civil Service provides the parties and procedures in case of recall or invalidation of appointment,¹³ to wit:

NON-DISCIPLINARY CASES

Rule 16

INVALIDATION OR DISAPPROVAL OF APPOINTMENT

Section 77. Invalidation or Disapproval; Who May Appeal. – **Either the appointing authority or the appointee may assail the invalidation or disapproval of an appointment.**

Section 78. Where and When to File. – Appointments invalidated or disapproved by the CSCFO may be appealed to the CSCRO while those invalidated or disapproved by the CSCRO may be appealed to the Commission within the fifteen (15)-day reglementary period.

To facilitate prompt actions on invalidated or disapproved appointments, motions for reconsideration filed with the CSCFO shall be treated as an appeal to the CSCRO and a **Motion for Reconsideration at the CSCRO will be treated as an appeal to the Commission** and all

¹¹ *Id.* at 77–93

¹² *Abad v. Dela Cruz*, 756 Phil. 414, 424 (2015).

¹³ *Civil Service Commission v. Cutao*, G.R. No. 225151, September 30, 2020.

the records thereof including the comments of the CSCFO or CSCRO shall, within ten (10) days from receipt of the latter, be forwarded to the CSCRO or the Commission as the case may be.

The action of the CSCRO concerned may be appealed to the Commission within fifteen (15) days from receipt thereof.

The appeal filed before the CSCROs and the Commission shall comply with the requirements for the perfection of an appeal enumerated in Sections 113 and 114. (Emphases supplied)

In *Abella, Jr. v. Civil Service Commission*,¹⁴ the Court explained that the appointing authority or the appointee may assail the disapproval or invalidation of an appointment. The view that only the appointing authority may request reconsideration or appeal is too narrow. The adversely affected party necessarily includes the appointee who should have the same right, viz.:

*The Appointee a Real
Party in Interest*

A real party in interest is one who would be benefited or injured by the judgment, or one entitled to the avails of the suit. "Interest" within the meaning of the rule means material interest or an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved or a mere incidental interest. Otherwise stated, the rule refers to a real or present substantial interest as distinguished from a mere expectancy; or from a future, contingent, subordinate, or consequential interest. As a general rule, one who has no right or interest to protect cannot invoke the jurisdiction of the court as a party-plaintiff in an action.

Although the earlier discussion demonstrates that the appointing authority is adversely affected by the CSC's Order and is a real party in interest, the appointee is rightly a real party in interest too. **He is also injured by the CSC disapproval, because he is prevented from assuming the office in a permanent capacity. Moreover, he would necessarily benefit if a favorable judgment is obtained, as an approved appointment would confer on him all the rights and privileges of a permanent appointee.**

*Appointee Allowed
Procedural Relief*

Section 2 of Rule VI of CSC Memorandum Circular 40, s. 1998 should not be interpreted to restrict solely to the appointing authority the right to move for a reconsideration of, or to appeal, the disapproval of an appointment. PD 807 and EO 292, from which the CSC derives the authority to promulgate its rules and regulations, are silent on whether appointees have a similar right to file motions for reconsideration of, or appeals from, unfavorable decisions involving appointments. **Indeed, there is no legislative intent to bar appointees from challenging the CSC's disapproval.**

¹⁴ 485 Phil. 182 (2004).

The view that only the appointing authority may request reconsideration or appeal is too narrow. The appointee should have the same right. Parenthetically, CSC Resolution 99-1936 recognizes the right of the adversely affected party to appeal to the CSC Regional Offices prior to elevating a matter to the CSC Central Office. The adversely affected party necessarily includes the appointee.¹⁵ (Emphases supplied, citations omitted)

In *Quirog v. Aumentado*,¹⁶ the Court reiterated the rule that both the appointing authority and the appointee are equally real parties in interest who have the requisite legal standing to bring an action challenging a CSC disapproval of an appointment, thus:

In the recent case of *Abella, Jr. v. Civil Service Commission*, the Court declared that both the appointing authority and the appointee are equally real parties in interest who have the requisite legal standing to bring an action challenging a CSC disapproval of an appointment. In said case, we held that:

The CSC's disapproval of an appointment is a challenge to the exercise of the appointing authority's discretion. The appointing authority must have the right to contest the disapproval. Thus, Section 2 of Rule VI of CSC Memorandum Circular 40, s. 1998 is justified insofar as it allows the appointing authority to request reconsideration or appeal.

x x x x

Clearly, pursuant to *Abella, Jr.*, Quirog had the right to ask for reconsideration of, or to appeal the adverse ruling of CSCROVII. In contrast, Relampagos, by reason of the expiration of his term as governor, had lost the legal personality to contest the disapproval of the appointment.¹⁷ (Emphasis supplied)

Here, it is undisputed that Aldon assailed the disapproval of San Gabriel's appointment before the CSC. Yet, Aldon can hardly be considered a real party in interest because she is neither the appointing authority nor the appointee. To be sure, Aldon has no imprimatur from Mayor Binay when she appealed the case. The name of Mayor Binay does not even figure in the appeal either as principal or as city mayor. The Indorsement dated February 10, 2015 cannot grant Aldon any interest in the case because it was issued long after the appeal was filed on May 30, 2014. The Indorsement was even executed only later when the CSC-NCR denied Aldon's appeal on January 13, 2015 for lack of legal personality. Notably, the Indorsement did not ratify or acknowledge Aldon's appeal. The tenor of the Indorsement failed to expressly indicate whether Mayor Binay is adopting or approving Aldon's act. Also, Mayor Binay's silence and acquiescence do not constitute implied ratification.¹⁸ The issuance of the Indorsement is a mere

¹⁵ *Id.* at 198-200.

¹⁶ 591 Phil. 555 (2008).

¹⁷ *Id.* at 564-566.

¹⁸ *University of Mindanao, Inc. v. Bangko Sentral ng Pilipinas*, 776 Phil. 401 (2016).

afterthought and a belated attempt to clothe Aldon with the authority that was lacking when she filed the appeal. At most, Aldon instituted the appeal in her capacity as the Makati City Personnel Officer who is not a real party in interest in cases involving the recall or invalidation of appointment.

Corollarily, absent a proper and timely appeal, the CSC-NCR's Letter dated February 25, 2013 disapproving San Gabriel's appointment became final and executory.¹⁹ A decision that has acquired finality is immutable and unalterable. This quality of immutability precludes the modification of the judgment, even if the modification is meant to correct erroneous conclusions of fact and law. Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of courts but extends as well to those of all other tribunals exercising adjudicatory powers.²⁰

In any event, the Court finds that the CSC correctly invalidated the appointment of San Gabriel. It is settled that as long as the appointee possesses the minimum qualifications prescribed by law or regulations, there is no question that his appointment must be respected by the CSC even if it be proved that there are others with superior credentials.²¹ However, this rule does not cover cases where the CSC found, after examining the appointment papers, that the appointee does not satisfy the minimum qualifications for the position in question. In this circumstance, the CSC would be well within its right and responsibility to disapprove the appointment.²²

Here, the Court agrees with the CSC that San Gabriel failed to satisfy the residency requirement for the position of Makati City Government Department Head II at the General Services Department. The Personal Data Sheet (PDS) of San Gabriel at the time of his appointment in 2012 indicated that he is a resident of "Unit B Miranella Townhomes at No. 77 Boni Serrano Street, Cubao, Quezon City." On the other hand, the PDS which indicated that San Gabriel is a resident of "A-Venue Residences Tower 1 in Makati City" was accomplished only in 2014. It bears emphasis that the PDS is a public document where applicants represent their relevant information to guide the appointing authority in the assessment of their qualifications for appointment to particular position. When the applicants fill up the information sheet, they do so under an undertaking that the matters represented therein are true and correct.²³ Verily, San Gabriel admitted in his PDS that he is a resident of Quezon City, and not Makati City, at the time of his appointment in 2012. More telling is that the phone bills,²⁴ cable receipt,²⁵ statement of account,²⁶ and official receipt²⁷ of condominium association dues in Makati City were all issued in 2014. Lastly, it is curious that San Gabriel only

¹⁹ *Argel v. Singson*, 757 Phil. 228 (2015).

²⁰ *Torres v. STI College, Davao*, G.R. No. 253151, January 13, 2021 (Notice).

²¹ *Abad v. Dela Cruz*, *supra* note 12 at 430.

²² *Cortez v. Civil Service Commission, et al.*, 272-A Phil. 180 (1991) citing *Luego v. Civil Service Commission*, 227 Phil. 303 (1986).

²³ *Wooden v. Civil Service Commission, et al.*, 508 Phil. 500 (2005).

²⁴ *Rollo*, pp. 130-131.

²⁵ *Id.* at 132.

²⁶ *Id.* at 134.

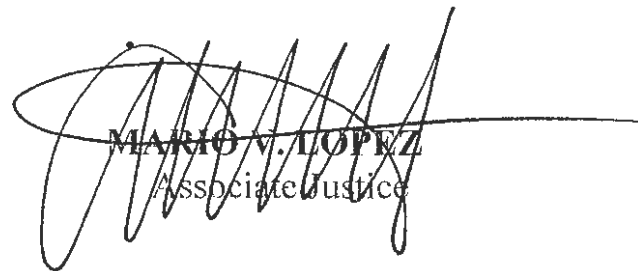
²⁷ *Id.* at 133.

became a registered voter in Makati in 2014 as indicated in the Voter Certification. Taken together, the CSC properly ruled that San Gabriel does not possess the minimum qualifications required by law absent proof of compliance with the residency requirement at the time of his appointment.

On this score, the Court reminds that appointment is essentially a discretionary power and must be performed by the officers on whom it is vested according to their best lights. The only condition is that the appointee must possess the qualifications required by the law. Otherwise, the Court will not hesitate to declare invalid the appointment in the interest of merit and fitness in the civil service.

ACCORDINGLY, the Petition for Review on *Certiorari* is **GRANTED**. The Decision of the Court of Appeals dated November 29, 2016 in CA-G.R. SP No. 140570 is **REVERSED**. The Decision dated January 13, 2015 of the Civil Service Commission is **REINSTATED**.

SO ORDERED.



MARIO V. LOPEZ
Associate Justice

WE CONCUR:



MARVIC M. V. F. LEONEN
Senior Associate Justice
Chairperson

On official leave
HENRI JEAN PAUL B. INTING
Associate Justice



JHOSEP V. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

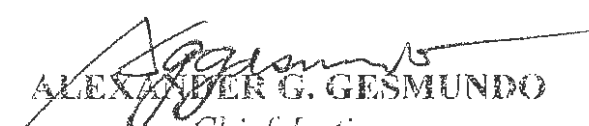
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M. V. F. LEONEN
Senior Associate Justice
Chairperson

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.



ALEXANDER G. GESMUNDO
Chief Justice