

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

House Bill No. 8012



Introduced by Representatives Edcel C. Lagman, Ron P. Salo, Doy C. Leachon, Mark O. Go, Jose Christopher Y. Belmonte, Mark Aeron H. Sambar

EXPLANATORY NOTE

Salutary is the rule that a judgment or decision in an administrative case is only enforceable once the same has become final and executory when no motion for reconsideration or appeal is interposed or a seasonable appeal is lost.

This salutary rule is violated by extant rules of procedure which provide that pending a motion for reconsideration or appeal, the challenged order or decision is executory and must be executed.

Among others, the following procedural rules are inconsistent with the above-mentioned salutary rule:

(a) Section 7 of Rule III of the Rules of Procedure of the Office of the Ombudsman under Administrative Order No. 07 dated 10 April 1990, as amended, which provides in full:

"Section 7. Finality and execution of decision.- Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one month salary, the decision shall be final, executory and unappealable. In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of Court, within fifteen (15) days from receipt of the written Notice of the Decision or Order denying the Motion for Reconsideration.

"An appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and

the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal.

"A decision of the Office of the Ombudsman in administrative cases shall be executed as a matter of course.

The Office of the Ombudsman shall ensure that the decision shall be strictly enforced and properly implemented. The refusal or failure by any officer without just cause to comply with an order of the Office of the Ombudsman to remove, suspend, demote, fine, or censure shall be a ground for disciplinary action against said officer." (Emphasis supplied).

(b) Section 65 of Rule 12 of the Revised Rules on Administrative Cases in the Civil Service dated November 8, 2011, which provides:

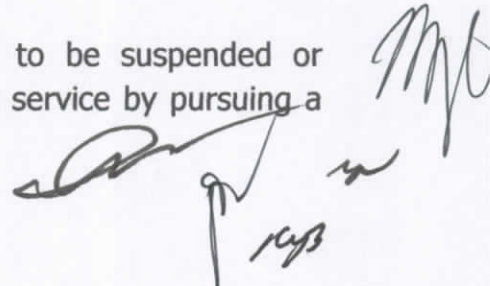
"Section 65. Effect of Filing. – Except for cases requiring confirmation of the Department Secretary concerned and cases decided by the CSCROs (Civil Service Commission Regional Offices), **an appeal shall not stop the decision from being executory.**" (Emphasis supplied).

Once the interposition of a motion for reconsideration or appeal is institutionalized and recognized, the same forms an integral component of procedural due process. This right will be rendered nugatory if the challenged order or decision is deemed executory pending the resolution of a motion for reconsideration or final adjudication of the appeal.

Why should the controverted order or decision be executory and executed (like suspension or dismissal from public service) when the crux of the motion for reconsideration or appeal is precisely the invalidity of the challenged suspension or dismissal. This errantly places the cart before the horse.

Due process includes the opportunity to be heard not only in the first instance but also on motion for reconsideration or appeal. This opportunity to be heard is virtually negated by the execution of the challenged order or decision pending a motion for reconsideration or appeal.

It is cruel and derogatory of due process for one to be suspended or dismissed even as he still fights for his due survival in public service by pursuing a seasonable motion for reconsideration or appeal.

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It is of no adequate relief that if the movant or appellant prevails, he is granted his back salaries covering the period of his suspension or dismissal during the pendency of his motion for reconsideration or appeal.

Public office is not measured by pesos and cents. Compensation is not the end-all and be-all of a public office. More than the emoluments and monetary benefits, it is the opportunity to serve and render public service which constitute the principal purpose and guidepost of a public office.

These purpose and guidepost of a public office assume ascendancy with respect to an **elective** public office where the incumbent has been mandated by the electorate to serve and his election is a covenant with the people to render public service, unless meanwhile he is deprived of his office by final judgment, not by a mere appealable judgment.

The purpose of this bill is to unequivocally provide that a reasonable motion for reconsideration, appeal or petition for review shall stay the execution of the challenged order or decision until the rendition of a final judgment affirming the said controverted order or decision.

Consequently, Section 7 of Rule III of the Rules of Procedure of the Office of the Ombudsman, Section 65 of Rule 12 of the Revised Rules on Administrative Cases in the Civil Service and similar rules, issuances and statutes are hereby modified or abrogated in so far as they provide that a challenged order of decision is executory pending a motion for reconsideration or appeal.

Expeditious passage of this bill is earnestly urged.



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**AN ACT
PROVIDING THAT THE SEASONABLE FILING OF A MOTION FOR
RECONSIDERATION AND/OR APPEAL SHALL STAY THE EXECUTION OF
THE CHALLENGED ORDER OF DECISION**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SEC. 1. *Declaration of Policy.* It is the consistent policy of the State that an order, judgment or decision of a court, quasi-judicial tribunal, agency or official in an administrative case becomes enforceable only after it is rendered final and executory by operation of law

SEC. 2. *Stay of Order of Decision.* The seasonable filing of a motion for reconsideration and/or appeal stays the execution of the challenged order or decision of a court, quasi-judicial tribunal, agency or official.

SEC. 3. *Repealing Clause.* Section 7 of Rule III of the Rules of Procedure of the Office of the Ombudsman under Administrative Order No. 07 dated 10 April 1990, as amended; Section 65 of Rule 12 of the Revised Rules on Administrative Cases in the Civil Service dated November 8, 2011; and all other similar rules, issuances and statutes inconsistent with this Act are hereby set aside, abrogated, repealed, modified or amended accordingly.

SEC. 4. *Effectivity.* This Act shall become effective immediately upon its approval.

Approved.