

ASSOCIATE JUSTICE DELILAH VIDALLON-MAGTOLIS, COURT OF APPEALS, COMPLAINANT, VS. CIELITO M. SALUD, CLERK IV, COURT OF APPEALS, RESPONDENT.

A.M. No. CA-05-20-P (Formerly OCA IPI No. 05-81-CA-P). September 09, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Cielito Salud, Clerk IV, Mailing Section of the Judicial Records Division, Court of Appeals (CA) stands charged with the following offenses:

- Inefficiency and incompetence in the performance of official duties;
- Conduct grossly prejudicial to the best interest of the service; and
- Directly or indirectly having financial and material interest in an official transaction, under Section 22, paragraphs (p), (t) and (u), Rule XIV of the Omnibus Rules Implementing the Civil Service Law.[1]

The Facts

Melchor Laguna was found guilty of homicide in Criminal Case Nos. 118032-H and 118033-H before the Regional Trial Court of Pasig City, Branch 163.[2] On appeal, the case was assigned to the Sixth Division of the Court of Appeals, docketed as CA-G.R. CR No. 27423. Laguna, who was then detained at the Bureau of Prisons National Penitentiary in Muntinlupa City, filed a Very Urgent Petition for Bail. Finding the petition well-taken, the appellate court issued a Resolution on October 9, 2003, directing him to post a P200,000.00 bond.

Lagua's bond was approved in a Resolution[3] dated November 6, 2003, where the appellate court also directed the issuance of an order of release in favor of Laguna. The resolution was then brought to the Office of the Division Clerk of Court, Atty. Maria Isabel M. Pattugalan-Madarang, for promulgation.

Irma Del Rosario, Utility Worker, noticed the respondent's unusual interest in the Laguna case. The respondent had apparently been making inquiries whether the appellate court had already directed the issuance of an order of release in the said case and was initially told there was none yet. Due to his persistence, the records of the case were eventually found.[4] Atty. Madarang then directed the typing of the Order of Release Upon Bond,[5] and to notify the mailing section that there were orders requiring personal service.[6] At around 4:00 p.m., the respondent then went to Atty. Madarang's office and assisted in arranging and stapling the papers for release. He brought the said resolutions and other papers himself to the Mailing Section.[7]

On November 7, 2003, the respondent went to the National Penitentiary to serve the resolution and order of release in the Laguna case. The respondent left the prison compound at around 2:30 p.m.[8]

In the meantime, Atty. Madarang received a telephone call from a certain Melissa Melchor, who introduced herself as Laguna's relative. It was about 2:00 p.m. The caller asked her how much more they had to give to facilitate Laguna's provisional liberty. The caller also told Atty. Madarang that they had sought the help of a certain

Rhodora Valdez of the Regional Trial Court (RTC) of Pasig, where the criminal case originated, but were told that they still had a balance to be given to Justice Magtolis and Atty. Madarang through the respondent. Atty. Madarang then called the said court and asked to speak to Ms. Valdez, pretending to be Laguna's relative.

What transpired thereafter is contained in Atty. Madarang's Affidavit dated December 8, 2003, as follows:

- That upon telephone queries made with the office of the Clerk of Court of RTC Pasig, I learned that Rhodora Valdez is the incumbent Process Server of RTC, [Branch] 163, Pasig City, from which the original case against accused-appellant Laguna originated. Disguising myself as accused-appellant Laguna's relative, I dialed [Branch] 163, RTC, Pasig (6314273) but Rhodora Valdez did not report for work that day, according to Baby (also known as Ester), her officemate (who) answered my call. She added that Rhodora Valdez has been waiting for us (Laguna's relatives) to call. Her exact words were these: "Wala si Rhodora. Meron lang siyang nilakad. Pero kahapon pa nya hinihintay ang tawag nyo. May kulang pa kayo eh. Kailangan kasing i-en banc sa Court of Appeals ang kaso ni Laguna."
- That I coordinated with Ms. Cecil Secarro, the Acting Chief of the Mailing Section, to inquire if it was usual/normal for her to text her process servers on the field for an update of their deliveries, to which she answered in the affirmative. While she was in the office, she texted Salud for his whereabouts and he replied, that he was on his way back to Quezon City. That was before 4 p.m., adding that his deliveries were ok.
- That I got Salud's mobile phone number from Ms. Secarro and started texting him at about the same time Ms. Secarro did. I represented myself as Arlyn, Laguna's relative. Most of his text messages are still stored in my mobile phone. In fact, I received one text message from him while I was at the office of Justice Magtolis, (the Chairman of the 6th Division and the ponente of C.R. No. 27423) in the late afternoon of November 7, 2003 while reporting to her this incident. Those stored in my phone are the following:
 - bkit, C rhodora to. 639204439082. – Nov. 2003, 15:36:15
 - CNO KAMAGANAK AT ANONG PANGALAN MO – 639204439082, 7 Nov 2003 16:14:47
 - SINO K KC NAGHIWALAY N KAMI – 639204439082, 7 Nov 2003 16:40:21
 - TAWAG K S AKIN – 639204439082 – 7 Nov 2003 17:18:47
 - NARELEASE N C MR. LAGUA. NAGKITA N B KAYO – 639204439082-7 Nov 2003 19:44:52
 - Magkano b and binigay nyo sa middle nyo. Puede bang malaman – 639184470111-7 Nov 2003 20:32:05
 - Gud evening. May gusto lng akong malaman. Sana alang makaalam kahit cino. Lito – 639184470111–7 Nov. 2003 19:54:20
 - Cno ang kausap n Rhodora. Pwede bang malaman – 639184470111-7 Nov 2003 20:37:57
 - May landline ka. Tawagan kta bukas nang umaga – 639184470111-7 Nov 2003 20:56:31
 - Wag s Court of Appeal. Txt na lang kta kung saan. – 639184470111-7 Nov 2003 20:52:58
 - Gusto mo bukas nang umaga magkita tyo. 639184470111 – 7 Nov 2003 20:57:10
 - D ba pwede bukas tyo kita. May gusto lang ako malaman – 639184470111 7 Nov 2003 21:02:41
 - D 2ngkol kay rhodora duon sa kasama ko kaninang lalakeng pinsan – 639184470111 – 7 Nov 2003, 21:04:28
 - Ala po ako sa Lunes sa opis. Sa hapon po puede kyo – 639184470111, 7 Nov 2003 21:07:23
 - Kay Melchor Laguna 639184470111 – 7 Nov 2003 21:08:19

- Kasama ko cya kanina nang lumabas – 639184470111 – 7 Nov. 2003 21:13:05
- Ano m ba Melchor Laguna – 639184470111 – 7 Nov 2003 21:15:52
- Between 5 and 5:30 ng hapon. Bkit. 639184470111 – 7 Nov. 2003 21:54:24
- 3 PM PUWEDE KB – 639004039082 10 Nov 2003 12:09:32
- Kilala mo b c rhodora. Nagkita na b kayo. Ala naman problema sa kanya. Ok naman 639184470111 – 7 Nov 2003, 21:57:13
- MAGKITA N LANG TAYO – 639204439082 – 10 Nov. 2003, 12:20:16
- A, OK, NAGKITA N B KAYO NG KAMAGANAK MO – 639204439082 – 10 Nov 2003 15:12:14
- D TALAGA AKO DARATING DAHIL WALA AKONG KAILANGAN S IYO. – 639204439082 – 10 Nov 2003 18:36:03

- That Salud called me up in the morning of November 8, 2003 at around 7:33 but I purposely did not answer him. Why did he need to call me up?

- That I personally called up the Bureau of Prisons for the exact time the Order of Release was delivered and when accused appellant Laguna was released. I learned that the Order of Release was received at 9:15 A.M. and that Laguna was released between 5-5:30 P.M. of November 7, 2003.

- That I was able to talk to Rhodora Valdez the following Monday, November 10, 2003. Again, I introduced myself as Laguna's relative, Arlyn and told her I only wanted to know how much more we had to pay for Laguna's release. She refused to entertain me because according to her, "Hindi ikaw ang kausap ko. Duda ako sa yo. Kung gusto mo, puntahan mo ako dito bukas, para magkita tayo. Pero lumabas na si Laguna. Itinawag sa akin ni Lito Salud." Then, she [hung] up.

- That on Tuesday, November 11, 2003, I brought Salud, accompanied by Ms. Secarro to Justice Magtolis. Out of the confrontation, we discovered that Salud did not properly serve the copies of the Resolution and Order of Release upon the accused-appellant and his counsel, Atty. Salvador C. Quimpo of the Quimpo Dingayan-Quimpo and Associates. He gave them to a certain Art, allegedly Laguna's relative who he claimed approached him at the Bureau of Prisons in the morning of November 7, 2003. He told Justice Magtolis that he gave these documents to Art, who promised to take care of them, even before he could deliver the copy addressed to the Director of Prisons. He never mentioned that this Art was connected with the office of accused-appellant's counsel. Because of this information from Salud himself, I did not sign the Certificate of Service, Annex "C".

- That several days later, Salud accompanied by Ms. Secarro, came to my office to apologize. But before he could even say a word, he broke down in [wails]. In between his loud cries, he uttered, "Boss, patawad po, alang-alang sa aking mga anak." [9]

On November 11, 2003, Justice Magtolis called the respondent to her office. When confronted, the respondent denied extorting or receiving money for Laguna's release, or in any other case. He, however, admitted serving the copies of resolution and order of release intended for Laguna and his counsel to Art Baluran.[10] Justice Magtolis then called the respondent to a meeting with Clerk of Court Atty. Tessie L. Gatmaitan, who stated that she would transfer the respondent to another office which has nothing to do with cases.

Justice Magtolis lodged the complaint against the respondent in a Letter dated November 14, 2003, containing, among others, the following allegations:

The delivery of resolutions/orders to unauthorized persons and "complete strangers" who promised to "take care thereof" ("siya na raw ang bahala") constitutes not only neglect of duty but also conduct prejudicial to the best interest of the service. Staying for the whole day within the vicinity of the National Bilibid Prisons to the point of failing to fulfill his other duties for the day constitutes inefficiency and incompetence in the performance of official duties. On the other hand, the use of my name and that of our Division Clerk of Court to illegally solicit financial or material benefit from parties with pending cases before this Court is illegal per se.

In view of the foregoing, it is respectfully requested that Cielito Salud be subjected to an administrative investigation and disciplinary action.[11]

Attached to the complaint were the following documents to support the charges:

ANNEX "A" - Record of the cases received by Salud on November 6, 2003 for delivery/service the following day, November 7, 2003. Please note that in each of the 3 cases assigned to him, there are several parties/counsels to be served.

ANNEX "B" - Certificate of Service signed by Salud, attested by the Acting Chief of the Mailing Section and Division Clerk of Court Ma. Ramona L. Ledesma, showing that the parties/counsel in SP-67586 were served only on November 10, 2003 (not on November 7, 2003).

ANNEX "C" - Certificate of Service for CR-27423, and corresponding Delivery Receipts.

"C-1" - Delivery Receipts for Defense Counsel Salvador Quimpo signed by someone whose signature was identified by Salud [as] "Art" – a cousin of appellant Melchor Laguna.

"C-2" - Delivery Receipt for the accused-appellant, received by the same "Art" and not served thru the Director of Prisons.

"C-3" - Delivery Receipt for the OSG, showing that it was delivered/received by the said office on November 10, 2003, not on November 7, 2003.

"C-4" - Delivery Receipt for the Director of Prisons showing receipt on November 7, 2003.

ANNEX "D" -Record of Resolutions in 3 other cases (SP-80241, SP-65404 and SP-77957) received for service by Salud on November 10, 2003. The resolutions/processes in these 3 cases were delivered/served to the parties/counsel on November 10, 2003 together with undelivered resolutions left unserved/undelivered on November 7, 2003.

ANNEX "E" -Certification signed by Salud showing service to parties/counsel in SP-65404 (received by Salud on November 10, 2003) on November 10, 2003 (same date)

ANNEX "F", "F-1" & "F-2" - Delivery Receipts for parties/counsel in SP-65404, showing service/delivery on November 10, 2003 – in contrast to his minimal delivery/services on November 7, 2003 only in Muntinlupa.

ANNEX "G" - Copy of the resolution dated November 6, 2003 of the 6[th] Division approving the appellant's bond and directing the issuance of an order of release.

ANNEX "H" - Copy of the Order of Release upon Bond, which Salud was supposed to deliver, among others on November 7, 2003 to the defense counsel, the appellant and the OSG.[12]

In his counter-affidavit,[13] the respondent vehemently denied the charges. He never demanded money from Laguna's relative; his name had been used by someone and was, thus, a mere victim of the circumstances. Moreover, the fact that he immediately released the CA order in question was clear proof that he had no financial interest in the transaction. His version of the events that occurred that day is as follows:

4.1

That on November 6, 2003 at around 1:38 p.m. the Acting Chief of the Mailing Section gave me an assignment to deliver the Writ of Habeas Corpus (hearing on November 26, 2003 at RTC, Zamboanga) for CA-G.R. SP No. 80238 for delivery to NBI, PAO, Quezon City, Muntinlupa;

4.2

That I delivered a copy of the Writ of Habeas Corpus to [the National] Bureau of Investigation (NBI);

4.3

That while I was at the NBI, I received a text message from my boss, requesting me to return to the office immediately because there is another notice of resolution coming from Atty. Ledesma which I have to serve to Quezon City and Las Piñas;

4.4

In compliance with the request, I returned to the Office and arrived at around 3:15 p.m.;

4.5

That when I received the resolution, I read the same and found out that the hearing is still scheduled on December 10, 2003 at 10:30 a.m.;

4.6

That when I was about to leave to deliver the Writ of Habeas Corpus and the Notice of Hearing to the PAO, Quezon City, my officemate Jun Vicencio told me to wait because Irma, the staff of Atty. Madarang requested me to standby because I need to deliver the Order of Release to the New Bilibid Prison, Muntinlupa;

4.7

That because of the request I waited until 4:00 p.m.;

4.8

That because its already late, I decided to go to Atty. Madarang's office to inquire about the Order of Release which I need to deliver to the New Bilibid Prison, Muntinlupa;

4.9

That Atty. Madarang told me to wait a little while because the order is about to be finished. So I waited.

4.10

That Atty. Madarang gave to me the Order of Release at 4:15 p.m.

4.11

That because I am aware that I may not reach [the] New Bilibid Prison on time, I told Atty. Madarang that I can deliver it on November 7, 2003, early in the morning. She agreed and told me "THANK YOU" Ikaw na ang bahala;

4.12

That I informed my boss about the Order of Release that was assigned to me and she had it listed in our logbook. I asked my boss [Cecil Secarro] if I can deliver the Notice of Hearing for SP 67586 and the others on Monday if I cannot finish delivering them on November 7, 2003. She agreed but told me to be sure that the Order of Release will be served first and the others be served not later than Monday, November 10, 2003. Thereafter, I went home.

4.13

That on November 7, 2003, I went straight to [the] New Bilibid Prison and arrived there before 8:00 [a.m.] Unfortunately, all the staff wearing white uniforms and the security guards were falling in line in front of the building of the New Bilibid Prison. So I could not enter the administration office.

4.14

That while I was standing in front of the building where the administrative office is located, a certain ART approached me and asked me if I am the personnel of the Court of Appeals who will deliver the Order of Release.

4.15

That I said yes, and he told me his name and said that he is a relative of MELCHOR LAGUA (prisoner) and is connected with the office of Atty. [Quimpo].

4.16

That at around 9:30 [a.m.] I was able to enter the administrative offices but because there was no staff inside – I went to the documentation office. The staff in the documentation office told me to submit the Order of Release to the administrative office. He said that they will prepare the documents of MELCHOR LAGUA (prisoner) but also told me that the prisoner might be released on Monday yet because the signatories are busy attending the ongoing 98 anniversary celebration;

4.17

That I returned to the administrative office and was able to find Mr. JUANITO TORRES, Administrative Officer III, who received the copy for the Director but refused to receive the copy of Mr. LAGUA. He told me to wait for his staff to receive the copy of Mr. LAGUA;

4.18

That because the staff were not around, I went to the canteen to buy softdrinks to quench my thirst;

4.19

That Mr. ART followed me in the canteen and told me to assist in the release of Mr. LAGUA because there were no personnel attending to the Order of Release;

4.20

That since my boss told me to insure the release of the prisoner, I waited for my staff to arrive who will attend to the matter;

4.21

That I delivered the copy of Mr. LAGUA to the staff. But ART told them he can receive the copy of Mr. LAGUA because he is his relative so, the staff told me to give the copy to ART.

4.22

That I gave the copy of the Order of Release for the accused to ART. ART also told me that he is authorized to receive the copy for Atty. Quimpo because he is also the representative of the law office. Hence, I also gave the copy for Atty. Quimpo to ART;

4.23

That I was able to finish my duty at the New Bilibid Prison at around 2:30 [p.m.] and I proceeded to Purok I, 6A Bayanan, Muntinlupa to serve the Writ of Habeas Corpus in CA-G.R. SP No. 80238;

4.24

That because of [sic] the address of the addressee was incomplete, I found a hard time locating the address of the addressee and when I found Purok I, 6A, the persons thereat do not know JOEL DE LA PAZ. I asked for their help but nobody in the place knew JOEL DE LA PAZ;

4.25

That I left Muntinlupa late in the afternoon and due to the lack of time I decided to deliver the other documents

on the next working day which is Monday, November 10, 2003;

4.26

That I delivered the other documents on Monday, November 10, 2003, without any problem;

4.27

That I was surprised when Atty. Madarang later on accused me that I used her name and the name of Justice Magtolis to demand money from Mr. LAGUA'S relative.[14]

Considering the gravity of the charges, then Acting Presiding Justice Cancio C. Garcia[15] referred the matter to Atty. Elisa B. Pilar-Longalong, Assistant Clerk of Court, for investigation, report, and recommendation.

The Investigation

The requisite hearings were held from December 12, 2003 to August 4, 2004.

Atty. Madarang affirmed the contents of her Affidavit[16] dated December 8, 2003. She testified that the respondent later came to her office along with Ms. Secarro. Amidst his cries, he pleaded, "Boss, patawad po, alang-alang sa aking mga anak." She replied, "Wait, wala ka namang kasalanan sa akin. Ikaw ang nagpasimuno ng lahat ng ito." The respondent repeated, "Boss, patawad po alang alang sa aking mga anak," and Atty. Madarang answered, "Okey lang, pinatawad na kita. Hindi naman ako galit sa iyo." [17]

Justice Magtolis testified that Atty. Madarang reported having received a telephone call from the alleged relative of Lagua. She narrated that she gave the name "Arlyn" to the caller, and, thereafter, exchanged text messages with the respondent. Justice Magtolis instructed Atty. Madarang to continue communicating with the respondent and, if possible, to see it through a possible pay-off where a National Bureau of Investigation (NBI) agent would be asked to assist them. However, the entrapment did not materialize. The respondent thereafter came to her office, where he was asked why he was unable to serve all the other papers and documents that day.[18] He also admitted that he served a copy of the resolution to the wrong person (Baluran). Justice Magtolis also stated that she threatened to transfer the respondent, and that the latter vehemently objected, pleaded, and cried saying, "Huwag naman pong pa-transfer." When asked why, the respondent said that he has children in school and something like, "Dyan po ako kumikita." [19]

Another witness was Cristy Flores, convicted of three counts of estafa who served time at the Correctional Institute for Women in Batangas City. She testified that the respondent was introduced to her in December 1998 by a certain Crisanta Gamil.[20] Gamil was also detained at the correctional facility; the respondent had worked on her appeal bond papers and asked for P20,000.00 to facilitate the issuance of the appeal bond.[21] The payment was made right in front of her, and the respondent issued a receipt.[22] The witness also testified that Gamil told her, "O, at least dyan mo ipalakad ang papel mo. Okay 'yan, sigurado." [23] The respondent visited her in May 1999, as she had asked him to fix her appeal bond. During the visit, the respondent took the pertinent documents from her.[24] The witness also stated that she gave the respondent a partial payment of P7,000.00[25] on May 16, 1999 and he issued a receipt.[26] They then proceeded to the Documents Section where they secured copies of the court decision, certificate of manifestation and her picture. She made the last payment of P13,000.00 in June 13, 1999, and also issued a receipt. The respondent was also asking for an additional payment of P15,000.00, which she was unable to give.

Flores narrated that she introduced another detainee to the respondent, Dalawangbayan, whom the latter was also able to "help". She stated that according to Dalawangbayan, the respondent asked for P200,000.00. She further testified that she knew the respondent as Joselito M. Salud, and not Cielito Salud.[27] After the incident, she wrote a letter to Associate Justice Conrado Vasquez, Jr. to ask for assistance regarding her appeal bond.

Atty. Salvador Quimpo, Laguna's counsel, testified that it was Engineer Art Baluran who hired him as counsel of the said accused. He stated that he gave an oral authorization to Baluran to get the CA resolutions or orders; Baluran was the one who furnished him a copy of the resolution.[28] He called Mr. Baluran to say that an order for Laguna's release had already been issued by the appellate court. The witness stated, however, that he had never seen the respondent before.[29]

The respondent testified that he has been a CA employee since 1991. He admitted that he knew Flores, and met her in January 1999 when he brought Gamil's order of release in the Batangas City Jail. He claimed that he was waiting for the relatives of Gamil as they were the ones who would pay for his fare home, and while waiting, he talked to the jailguard/warden. Flores then approached him and asked him if he was from the CA. When the respondent answered in the affirmative, Flores replied that Justice Vasquez was her neighbor in Biñan, Laguna.

The respondent admitted that he was in the Correctional Institute for Women in Mandaluyong City on May 16, 1999, as he was then visiting Vilma Dalawangbayan. He also saw Flores.[30] When asked why he visited Dalawangbayan, the respondent replied that Flores had written a letter to him (which he dubbed as "maintrigang sulat")[31] addressed "Lito Salud, Mailing Section, Court of Appeals." In the said letter, Flores asked him to help Dalawangbayan, just like he had helped Gamil. The respondent then showed the letter to then Chief of Office Prudencio B. Aguilar, who told him, "Puntahan mo yan, Lito at maintriga 'yang sulat na 'yan, baka tayo mapahamak dyan." [32] Thus, he went to the Correctional Institute in Mandaluyong City to "sort things out" with Dalawangbayan and Gamil. The respondent, however, stated that he could not find the letter anywhere and had already been lost.[33]

During his May 16, 1999 visit to the correctional facility, Flores approached him in the visiting hall, and said suddenly, "Sandali lang, Kuya," then left. He then talked to Dalawangbayan about the "controversial" letter, explaining that his job in the Court of Appeals was only to remand the records and deliver the Orders for release, just like what he did in Gamil's case. [34] He again visited Dalawangbayan on June 13, 1999[35] as evidenced by the entries in the visitor's logbook. He was no longer able to speak to Flores, but made five other such visits to Dalawangbayan in the correctional facility.

The Findings of the Investigating Officer

In her Report dated January 21, 2005, Atty. Longalong found that the respondent was guilty as charged, and made the following recommendation:

In view of all the foregoing, there is substantial evidence to hold respondent liable for the offenses charged. He is liable for inefficiency and incompetence in the performance of his official duties and for conduct prejudicial to the best interest of the service when he admittedly served the copies of the resolution and order of release in the Laguna case intended for detained appellant and his counsel on Mr. Baluran whom he admitted to have met only on that day, against the rules and normal office procedure on personal service. His long stay in the Bureau of Prisons also caused the delay in the service of other court processes assigned to him for service on that day. He is also liable for having financial or material interest in an official transaction considering his undue interest in the service of the order of release and actual release of Laguna to the point of staying almost the whole day in the Bureau of Prisons and the aborted "deal" as can be concluded from the phone call of Melissa Melchor to Atty. Madarang and subsequent exchange of text messages with Atty. Madarang disguising as Laguna's relative.

...

RECOMMENDATION:

- Rule IV, Section 52 of Civil Service Commission Memorandum Circular No. 19, S. 1999, issued pursuant to Book V of the Administrative Code of 1987, provides that the penalty for the first offense of inefficiency and incompetence in the performance of official duties, for conduct prejudicial to the best interest of the service and for directly or indirectly having financial and material interest in any official transaction is suspension for a period of 6 months, 1 day to 1 year. Pursuant to Section 55 of the same Memorandum Circular, if the respondent is found guilty of 2 or more charges, the penalty to be imposed should be that corresponding to the most serious charge and the rest shall be considered as aggravating circumstances. Section 54-c of the same Memorandum Circular provides that the maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present. Since in this case, the penalty is the same for all 3 offenses, the maximum of the penalty for the first offense which is suspension for 1 year [may be] imposed on the respondent.
- Considering that the prescribed penalty for the offense exceeds one month suspension, the case may now be referred to the Supreme Court for appropriate action, pursuant to Circular No. 30-91 of the Office of the Court Administrator.[36]

The Ruling of the Court

On the charge of inefficiency, the respondent is clearly administratively liable. After serving Laguna's copy of the resolution and order of release to the prison Director, he should have immediately returned to his station or served the other resolutions and documents for personal service. As an officer of the court, the respondent plays an essential part in the administration of justice. He is required to live up to the stringent standards of his office, and his conduct must, at all times, be above reproach and suspicion. He must steer clear of any act which would tend to undermine his integrity, or erode somehow the people's faith and trust in the courts.[37] As the respondent himself admitted, he stayed on until 2:30 p.m. without any valid reason, despite the fact that he knew he still had to serve several orders and resolutions. As pointed out by the Investigating Officer, "inefficiency and incompetence in the performance of official duties" is classified as a grave offense, and is punishable by suspension for six months and one day to one year.[38]

Indeed, the complainant in administrative proceedings has the burden of proving the allegations in the complaint by substantial evidence. If a court employee is to be disciplined for a grave offense, the evidence against him must be competent and derived from direct knowledge; as such, charges based on mere suspicion and speculation cannot be given credence. Thus, if the complainant fails to substantiate a claim of corruption and bribery, relying on mere conjectures and suppositions, the administrative complaint must be dismissed for lack of merit.[39] However, in administrative proceedings, the quantum of proof required to establish malfeasance is not proof beyond reasonable doubt but substantial evidence, i.e., that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion, is required.[40] The findings of investigating magistrates on the credibility of witnesses are given great weight by reason of their unmatched opportunity to see the deportment of the witnesses as they testified.[41]

To determine the credibility and probative weight of the testimony of a witness, such testimony must be considered in its entirety and not in truncated parts. To determine which contradicting statements of a witness is to prevail as to the truth, the other evidence received must be considered.[42] Thus, while it is true that there is no direct evidence that the respondent received any money to "facilitate" the release of detained Laguna, the following circumstances must be taken as contrary to the respondent's plea of innocence:

First. The respondent admitted that he was the sender of the first three text messages in Atty. Madarang's cellphone: "bkit, C rhodora to"; "CNO KAMAGANAK AT ANONG PANGALAN MO"; and "SINO K KC

NAGHIWALAY N KAMI." The respondent's testimony on the matter is as follows:

Q: In the hearing of December 2, 2003, in the TSN on page 32 onwards ...

ATTY. ROSERO:

Is that the testimony of Atty. Madarang, Justice?

JUSTICE MAGTOLIS:

Oo. I will just refer to your admission through your counsel that Cellphone No. 6392044390[8]2 is yours. You admitted that?

ATTY. ROSERO:

I think we made an admission as to that matter, Justice. We'll just check the affidavit of Atty. Madarang.

JUSTICE MAGTOLIS:

Here, admitted. Basahin mo.

ATTY. ROSERO:

Yes, Justice, admitted but not the cellphone number ...

JUSTICE MAGTOLIS:

Sige, ulitin natin, 6392044390[8]2.

ATTY. ROSERO:

Yes, admitted. That is his cellphone.

JUSTICE MAGTOLIS:

This cellphone is yours.

Q:

Do you also admit that you called Atty. Madarang several times on November 7, 2003?

ATTY. ROSERO:

November 7 is... a Friday. Tumawag ka daw several times kay Atty. Madarang, November 7?

JUSTICE MAGTOLIS:

Texted, I'm sorry I will correct that, texted.

A:

Nauna po siyang magtext sa akin, Justice, hindi po ako nagtext sa kanya. Nagtext po siya sa akin sumagot po ako sa kanya.

Q:

There was an exchange several times?

A:

Nuong pong text niya sa akin ... hindi po several times dahil ... kung makita 'nyo po dyan.

JUSTICE MAGTOLIS:

Let me see the affidavit of Atty. Madarang. After this question, may I ask for a continuance?

ATTY. ROSERO:

No objection, Your Honor.

JUSTICE MAGTOLIS:

All these text messages were checked by us with your counsel in the cellphone of Atty. Madarang which were preserved until we allowed her to erase these. There are exchanges here: 6392044390[8]2, November 7. When she texted she answered, "Bkit c Rhodora 2" and then second was, "Cnong kamaganak anong pangalan mo?" This is addressed to you, this is your telephone?

A:

Opo.

Q:

But the one who answered is Rhodora?

A:

Ako po 'yun.

Q:

Ikaw ang sumasagot. Why did you say that you are Rhodora?

A:

Justice, nung ma-receive ko po 'yong text niya apat na beses ko pong na-receive ang text ni Arlene.

INVESTIGATOR:

Who is Arlene?

A:

Atty. Madarang. Arlene, sa text po niya sa akin, "Sir Lito, kamaganak po ito ni Mr. Laguna. Magkano pa po ba ang kakulangang pera para ibigay ko sa inyo. Si Rhodora ba kasama?" Hindi ko po sinagot yon. Pangalawa, 'yun din po ang message nya. Ano ito? Sa akin pong kuan, sa pag-iisip ko lang po, bakit dahil si Mr. Art Baluran kamag-anak na, ano ito? Text pa ulit pa sya ng pangatlo. Nang-iintriga na 'to. Pang-apat, intriga 'to. Text ko nga rin 'to, lokohan lang tayo. "Bkit si Rhodora 'to" yun po ang sagot ko sa kanya.

Q:

So at that time you already knew about Rhodora?

A:

Hindi po, dun, duon po sa text niya nakalagay po dun eh, "Si Rhodora kasama ba"? So ikinuan ko po na si Rhodora 'to, dun po sa text nya.

Q:

Nakipaglokohan ka?

A:

Sa text niya nakalagay dun na "Si Rhodora ba kasama" kaya po ako nakipaglokohan dun.[43]

As pointed out by the Investigating Officer, the respondent's claim of "joking around" ("nakipaglokohan") with an unknown sender of a text message by replying thereto is contrary to a normal person's reaction. This is made even more apparent by the fact that the respondent even admitted that he called Atty. Madarang twice, and when asked why, gave a vague answer, and, when further questioned, even broke down in tears.[44]

The respondent's claim that the admission of the text messages as evidence against him constitutes a violation of his right to privacy is unavailing. Text messages have been classified as "ephemeral electronic communication" under Section 1(k), Rule 2 of the Rules on Electronic Evidence,[45] and "shall be proven by the testimony of a person who was a party to the same or has personal knowledge thereof." Any question as to the admissibility of such messages is now moot and academic, as the respondent himself, as well as his counsel, already admitted that he was the sender of the first three messages on Atty. Madarang's cell phone.

This was also the ruling of the Court in the recent case of Zaldy Nuez v. Elvira Cruz-Apao.[46] In that case, the Court, in finding the respondent therein guilty of dishonesty and grave misconduct, considered text messages addressed to the complainant asking for a million pesos in exchange for a favorable decision in a case pending before the CA. The Court had the occasion to state:

... The text messages were properly admitted by the Committee since the same are now covered by Section 1(k), Rule 2 of the Rules on Electronic Evidence, which provides:

"Ephemeral electronic communication" refers to telephone conversations, text messages ... and other electronic forms of communication the evidence of which is not recorded or retained."

Under Section 2, Rule 11 of the [said rules], "Ephemeral electronic communications shall be proven by the testimony of a person who was a party to the same or who has personal knowledge thereof" In this case, complainant who was the recipient of the said messages and therefore had personal knowledge thereof testified on their contents and import. Respondent herself admitted that the cellphone number reflected in complainant's cellphone from which the messages originated was hers. Moreover, any doubt respondent may have had as to the admissibility of the text messages had been laid to rest when she and her counsel signed and attested to the veracity of the text messages between her and complainant. It is also well to remember that in administrative cases, technical rules of procedure and evidence are not strictly applied. We have no doubt as to the probative value of the text messages as evidence in determining the guilt or lack thereof of respondent in this case.

Second. The respondent's testimony during the hearings held before Investigating Officer Atty. Longalong is replete with inconsistencies and "loopholes." He claimed that he made inquiries from other CA staff and learned that there was indeed a deal between someone in the criminal section and a certain Rhodora of the RTC, Pasig. He further claimed that the said parties wanted to get back at him for "immediately serving" the release order which prevented them from demanding the balance of the deal from Laguna's relative. However, this bare claim was not corroborated by any witness. Moreover, the respondent alleged that two anonymous callers claimed to know

something about the case against him; when asked about it, he stated that he no longer exerted efforts to find out who they were as they did not give out their names:

JUSTICE MAGTOLIS:

Q:

On page 5 of your affidavit, you said in paragraph 8 "That I made some inquiry and some personnel of the Court of Appeals told me that there is indeed a deal between a staff in the Criminal Section and Rhodora of RTC, Pasig. Can you tell us who is this staff?

A:

Ah dito po Justice, hindi po siya nagpakilala, sa telephono po.

INVESTIGATOR:

Sino siya?

A:

Hindi po siya ... 'yong tawag po niya sa akin sa telepono nang malaman po dito sa CA na ako ay kinasuhan ninyo tumawag po siya sa Personnel.

JUSTICE MAGTOLIS:

Q:

Who is siya?

A:

Ay hindi po siya nagpakilala.

INVESTIGATOR:

Lalaki o babae?

A:

Una po babae tapos 'yong pangalawa po lalaki.

INVESTIGATOR:

Sinong kinakausap?

A:

Ako po.

INVESTIGATOR:

Hinahanap ka?

A:

Hinahanap po nila ako.

JUSTICE MAGTOLIS:

Q:

What did he tell you? He, lalaki, ano?

A:

Sa babae muna po?

Q:

Oo, babae't lalake ba?

A:

Opo.

Q:

Who was the first caller, the lady or the gentleman?

A:

Babae po.

Q:

Were you the one who answered the phone?

A:

Hindi po.

INVESTIGATOR:

Hinahanap daw siya.

JUSTICE MAGTOLIS:

Q:

Hinahanap ka, okay, when you answered the phone, what did you say?

A:

Ang sabi ko po sa kanya, "pupuwede mo ba akong matulungan sa paggawa ng affidavit dahil kinasuhan nga ako ni Justice Magtolis."

Q:

But you do not know who you were talking to?

A:

Tinanong ko nga po kung sino siya eh tumutulong lang daw siya sa akin dahil ang naririnig niyang tsismis din dyan eh baka po si Rhodora ang may ka-kuan sa Criminal.

Q:

Saan 'yong ka-kuan?

A:

Ang may kausap sa Criminal.

Q:

Who said "na baka si Rhodora ang may kausap sa Criminal"?

A:

'Yon pong kausap ko sa kabilang linya.

Q:

The name you do not know?

A:

Eh tinanong ko naman po kung sino siya ayaw naman po niyang magpakilala. Matutulungan mo ba ako, ibinaba na po ang telepono.

INVESTIGATOR:

Anonymous caller.

JUSTICE MAGTOLIS:

You are very fond of answering calls. You don't even know the name.

Q:

That anonymous caller told you that there must be some deals between Rhodora and someone from the Criminal Section?

A:

'Yun din daw po ang naririnig niyang tsismis dyan sa labas.

Q:

Tsismis, that was that the caller told you?

A:

Opo.

Q:

And she wanted to help you?

A:

Kaya po sinabi din sa akin na tsismis eh hindi pa po pwedeng ...

Q:

What did you answer her?

INVESTIGATOR:

Anong sagot mo raw?

JUSTICE MAGTOLIS:

Q:

Anong sagot niya sa tulungan kasi nakakarinig siyang tsismis?

INVESTIGATOR:

Q

Ano ang sagot mo?

A:

Eh iyon nga ang gusto kong malaman, ang katotohanan. Baka naman pupuwede mo akong matulungan. Sino ba 'to?

JUSTICE MAGTOLIS:

Q:

Di ba she was the one who offered to help?

A:

Ay ayaw daw po naman niyang masabit po ang pangalan niya.

Q:

But she was the one who called you?

A:

Opo.

Q:

Okay. How did your talk end with this girl or lady?

A:

Nung pagsalita ko nga pong baka pupuwede akong tulungan, wala na.

Q:

How about the man, the gentleman or the boy who called?

A:

Same kuan din po ang kanilang kuan e.

JUSTICE MAGTOLIS:

Don't use kuan.

ATTY. ROSERO:

Sige, Lito, ipaliwanag mo.

A:

Same kuento rin po, sinabi niya na ganuon din po na narinig din po niya sa labas.

JUSTICE MAGTOLIS:

Q:

Alright, you were not the one who answered the call?

A:

Hindi po.

Q:

Somebody called you that there's a phone call?

A:

Opo.

Q:

When you answered, what was your first word?

A:

Hello!

Q:

What was the answer at the other end of the line?

A:

Hello rin po.

Q:

What next?

A:

Alam mo, ang sabi po niya sa akin ganito po...

Q:

Who was the first one who said something other than hello?

A:

Siya po ang nauna.

Q:

What did she say, the exact words?

A:

Exact words, sa naalala kong sinabi niya "Alam mo, Mr. Salud," Salud po ang kuan niya sa akin, "narinig ko sa labas, istoryahan dyan sa labas na baka si Rhodora ang may ka-kuan dito sa Criminal." Ang sabi ko po sa kanya "Iyan din ang itinawag sa akin kahapon. Eh dalawa na kayo eh baka naman pupuwede nyo akong matulungan. Puede ko bang malaman ang pangalan mo?" Ganun din po, ayaw na pong magsalita ibinaba na [ang] telepono.

Q:

Do you know Rhodora?

A:

Hindi po.

Q:

You never met her?

A:

Hindi po.

Q:

You never talked to her?

A:

Nung pong ipinakiusap nyo sa akin sa telepono po nung tayo po'y ...

Q:

After the conversation with the lady and that gentleman who called you to offer some help and afterwards did not help at all, what happened?

A:

Wala na po.

Q:

Did you not check with Rhodora, "What is this they are talking about that it might be between you and someone in the Criminal Section?" You never asked her that?

A:

Hindi ko na rin po ...

Q:

You did not. But I thought you wanted help from those people who can help you?

A:

Eh hindi na nga po sila nagbanggit po ng pangalan dahil po sabi ng unang babae ayaw nga rin po niyang sumabit sa kaso.[47]

This respondent's actuation on this matter, if at all true, is again contrary to the normal reaction of one who has been administratively charged, and wants to clear his name of any wrongdoing.

The respondent also admitted visiting an inmate (Vilma Dalawangbayan) at the correctional facility eight times for no apparent reason. This admission lends some credence to the testimony of Flores, that she was the one who introduced him to Dalawangbayan, the person he was visiting. When asked why he frequently visited, he stated that he found her beautiful ("Maganda po siya, Justice"), and was on the verge of courting her ("Para na nga po akong nanliligaw"). The Court believes that this allegation was concocted by the respondent as a mere afterthought, to cover up for his misdeeds.

The Investigating Officer also found that the respondent was "high-strung" during his testimony, and this finding must be accorded respect. Indeed, when the issue is the credibility of witnesses, the function of evaluating it is primarily lodged in the investigating judge. The rule which concedes due respect, and even finality, to the assessment of the credibility of witnesses by trial judges in civil and criminal cases where preponderance of evidence and proof beyond reasonable doubt, respectively, are required, applies a fortiori in administrative cases where the quantum of proof required is only substantial evidence. The investigating judge is in a better position to pass judgment on the credibility of witnesses, having personally heard them when they testified, and observed their deportment and manner of testifying.[48] Thus, the following findings of Atty. Longalong are well taken:

However, respondent denied receiving P20,000 from Gamil and P15,000 from Flores and signing "LM Salud" on Flores' notebooks (Exhibits E-1 and F-1) but admitted visiting Vilma at the Correctional Institute for Women 8 times from May to August 1999. Respondent's denial here appears self-serving and incredible considering his admission of going to the Correctional Institute for Women several times for no valid official reason. Moreover, although Flores is a convict for estafa, her testimony on the matter was more consistent and credible. Likewise, respondent admitted seeing Flores at the Correctional Institute for Women and that Flores mailed her letter to him on May 16, 1999 which he called "maintriga." He also admitted that he told Flores to seek the help of Justice Vasquez on her case. The foregoing, plus the fact that Flores eventually wrote Justice Vasquez, confirms the truth of Flores' testimony on the matter.

With the aforecited admissions by respondent, the substantial evidence presented by the complainant and her witnesses with their positive and forthright testimonies deserve more credence than respondent's self-serving denial and inconsistent and vague testimony. Even the demeanor of complainant and her witnesses give credence to their testimonies than the nervous and [high-strung] demeanor of respondent during his testimony. Moreover, complainant and her witnesses, including the superiors of respondent, have no reason or motive whatsoever to testify falsely against him. Respondent's defense of denial is inherently a weak defense. It is well settled that denial, to be believed, must be buttressed by strong evidence of non-culpability, otherwise the denial is purely self-serving and with nil evidentiary value (*People of the Philippines v. Arlee*, 323 SCRA 201). Like the defense of alibi, denial crumbles in the light of positive declarations (*People of the Philippines vs. Ricafranca*, 323 SCRA 652).

Indeed, the Court is looked upon by people with high respect, a sacred place where litigants are heard, rights and conflicts settled and justice solemnly dispensed with. Misbehavior within or around the vicinity diminishes its sanctity and dignity. The conduct and behavior required of every court personnel, from the presiding judge to the

lowliest clerk, must always be beyond reproach and circumscribed with the heavy burden of responsibility. Their conduct must, at all times, be characterized by, among other things, propriety and decorum so as to earn and keep the public's respect and confidence in the judicial service.[49] Public service requires the utmost integrity and strictest discipline. Thus, a public servant must exhibit at all times the highest sense of honesty and integrity not only in the performance of his official duties but in his personal and private dealings with other people.[50]

While there is no direct evidence to suggest that he actually extorted money to "facilitate" the issuance of the appeal bond and release order which he himself served, the surrounding circumstances, as well as the inconsistencies in his testimony, point towards administrative culpability. The respondent's actuations fall short of the standard required of a public servant. He is guilty of gross or grave misconduct. Misconduct is a transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior, willful in character, improper or wrong behavior,[51] while "gross," has been defined as "out of all measure; beyond allowance; flagrant; shameful; such conduct as is not to be excused." [52] Under the Omnibus Civil Service Rules and Regulations, grave misconduct is punishable by dismissal from the service even for the first offense, as it is classified as a grave offense. However, considering that the respondent has not been previously charged nor administratively sanctioned, the Court finds that a penalty of suspension for one year and six months will serve the purpose of disciplining the respondent.

Court personnel, from the lowliest employee to the clerk of court or any position lower than that of a judge or justice, are involved in the dispensation of justice, and parties seeking redress from the courts for grievances look upon them as part of the Judiciary. They serve as sentinels of justice, and any act of impropriety on their part immeasurably affect the honor and dignity of the Judiciary and the people's confidence in it.[53] Thus, any conduct which tends to diminish the image of the Judiciary cannot be countenanced.

IN LIGHT OF ALL THE FOREGOING, respondent Cielito M. Salud is found GUILTY of inefficiency and gross misconduct. He is SUSPENDED for a period of One (1) Year and Six (6) Months, effective immediately. He is further DIRECTED to inform the Court as to the date of his receipt of this Decision to determine when his suspension shall have taken effect.

The Office of the Court Administrator is also DIRECTED to conduct a discreet investigation on the possible involvement of Rhodora Valdez (Utility Worker), and other personnel of the Regional Trial Court of Pasig City, Branch 163.

SO ORDERED.

Panganiban, (Acting Chief Justice), Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Tinga, Chico-Nazario, and Garcia, JJ., concur.

Davide, Jr., C.J., Puno, Quisumbing, Ynares-Santiago, Carpio Morales, and Azcuna, JJ., on official leave.

[1] Rollo, p. 2.

[2] Id. at 14.

[3] Id. at 13.

[4] Exhibit "C," Rollo, pp. 34-35.

[5] Rollo, p. 14.

[6] Exhibit "B," Rollo, pp. 26-29.

- [7] Exhibit "C," Id. at 34-35.
- [8] Exhibit "7."
- [9] Rollo, pp. 27-29.
- [10] Exhibits "B" and "7."
- [11] Rollo, p. 3.
- [12] Rollo, pp. 3-4.
- [13] Id. at 19-24.
- [14] Rollo, pp. 20-23.
- [15] Now an Associate Justice of the Supreme Court.
- [16] Exhibit "B," Rollo, pp. 26-29.
- [17] TSN, 12 December 2003, p. 12.
- [18] TSN, 13 January 2004, p. 19.
- [19] TSN, 13 January 2004, pp. 19-20.
- [20] TSN, 22 January 2004, pp. 13-14.
- [21] Id. at 15.
- [22] Id. at 18.
- [23] Id. at 16.
- [24] Id. at 21-22.
- [25] Id. at 24.
- [26] TSN, 4 March 2004, p. 13.
- [27] TSN, 22 January 2004, p. 38.
- [28] Id. at 40-45.
- [29] Id. at 47.
- [30] TSN, 25 May 2004, p. 7.
- [31] Ibid.
- [32] Id. at 9.
- [33] Id.
- [34] Id. at 11-12.
- [35] Id. at 12.
- [36] Report dated 1 January 2005, pp. 6-7.
- [37] Albello v. Galvez, A.M. No. P-01-1476, 16 January 2003, 395 SCRA 251.

- [38] Section 23(p), Rule XIV, Omnibus Civil Service Rules and Regulations.
- [39] *Fernandez v. Versola*, A.M. No. CA-04-40, 13 August 2004, 436 SCRA 369.
- [40] *Avancena v. Judge Liwanag*, 446 Phil. 710 (2003).
- [41] *Magarang v. Judge Jardin, Sr.*, 386 Phil. 273 (2000).
- [42] *Office of the Court Administrator v. Morante*, A.M. No. P-02-1555, 16 April 2004, 428 SCRA 1, 20.
- [43] TSN, 15 June 2004, pp. 58-61.
- [44] TSN, 29 June 2004, p. 4.
- [45] A.M. No. 01-7-01-SC, 17 July 2001. The Rules took effect on August 1, 2001.
- [46] A.M. No. CA-05-18-P, 12 April 2005.
- [47] TSN, 15 June 2004, pp. 53-58.
- [48] *Meneses v. Zaragosa*, A.M. No. P-04-1768, 11 February 2004, 422 SCRA 434.
- [49] *Policarpio v. Fortus*, A.M. No. P-95-1114, 18 September 1995, 248 SCRA 272.
- [50] *Concerned Citizens of Laoag City v. Arzaga*, A.M. No. P-94-1067, 30 January 1997, 267 SCRA 176.
- [51] BLACK'S LAW DICTIONARY, 5[th] ed. (1979), p. 901.
- [52] *Id.* at 632, citing *State Board of Dental Examiners v. Savelle*, 90 Colo. 177, 8 P. 2d 693, 697.
- [53] A.M. No. 03-06-13-SC, CODE OF CONDUCT FOR COURT PERSONNEL which took effect on June 1, 2004.

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