

PRESIDING JUDGE JOSE B. LAGADO AND CLERK OF COURT II JOSEFINA C. EMPUESTO, BOTH OF THE MUNICIPAL TRIAL COURT, MAHAPLAG, LEYTE, COMPLAINANTS, VS. CLERK II BRYAN ANTONIO C. LEONIDO...

A.M. No. P-14-3222 (Formerly A.M. OCA IPI NO. 11-3609-P). August 12, 2014

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Before the Court is a Letter-Complaint[1] dated March 3, 2011 filed by complainants Presiding Judge Jose B. Lagado (Judge Lagado) and Clerk of Court II Josefina C. Empuesto (Empuesto), both of the Municipal Trial Court of Mahaplag, Leyte (MTC), charging respondent Clerk II Bryan Antonio C. Leonido (Leonido) of the same court with Dishonesty and Misconduct.

The Facts

In their Letter-Complaint, complainants alleged that on February 22, 2011, Leonido intercepted and withdrew checks representing their second quincena salary as well as their share in the Judiciary Development Fund and Special Allowance for Judges Fund (subject checks) from the Mail Distribution Center, Postal Office of Tacloban, Leyte without their authority and knowledge. According to complainants, Leonido was able to claim the subject checks from the postal office by submitting a forged authorization letter[2] dated February 22, 2011 purportedly from Empuesto and presenting a photocopy of his Supreme Court identification card.[3] Thereafter, Leonido allegedly kept the subject checks in his possession without informing complainants of such fact. Learning about what had transpired, Judge Lagado repeatedly tried contacting Leonido, but to no avail. Eventually, on February 25, 2011, complainants were able to recover the subject checks through Leonido's wife who turned them over to a certain Edgar M. Miralles, a court aide of the MTC. As complainants averred, this was not the first time that Leonido fraudulently intercepted checks of other MTC employees.[4]

In a 1st Indorsement[5] dated March 17, 2011, the Office of the Court Administrator (OCA) directed Leonido to comment on the charges against him within ten (10) days from receipt of notice. Upon his failure to comply, the OCA sent him a Tracer Letter[6] dated August 1, 2011 reiterating its prior directive and warning him that the matter would be submitted for the Court's resolution with or without his comment. To date, Leonido has yet to file his comment.[7]

Meanwhile, in a Resolution[8] dated September 7, 2011 in A.M. No. 11-7-79-MTC,[9] the Court dropped Leonido from the rolls effective January 3, 2011 for his absences without official leave, without prejudice to the outcome of the instant case.

The Report and Recommendation of the OCA

In a Report and Recommendation[10] dated August 27, 2013, the OCA found Leonido guilty of Gross

Misconduct and Dishonesty, and accordingly, imposed the penalty of dismissal from service against him. However, in view of his having been dropped from the rolls effective January 3, 2011, the OCA instead recommended: (a) the forfeiture of all the remaining benefits due him, except accrued leave credits; and (b) his disqualification from re-employment in any branch, agency, or instrumentality of the government, including government-owned and controlled corporations.[11]

The OCA found that Leonido's acts of collecting the subject checks, forging a letter purportedly authorizing him to claim the same, and keeping such checks in his possession instead of immediately coordinating with the complainants, which remain undisputed by his failure to comment on the charges against him, constitute Gross Misconduct and Dishonesty for which he should be held administratively liable. The OCA also maintained that even if Leonido had been dropped from the rolls, the Court is not precluded from imposing upon him the accessory penalties of dismissal from service, i.e., forfeiture of benefits and disqualification from re-employment in the government service as well as in government-owned and controlled corporations.[12]

The Issue Before the Court

The essential issue in this case is whether or not Leonido should be held administratively liable for Dishonesty and Grave Misconduct.

The Court's Ruling

The Court concurs with the OCA's findings and recommendation.

Dishonesty is the disposition to lie, cheat, deceive, defraud, or betray; unworthiness; lack of integrity; lack of honesty, probity, or integrity in principle; and lack of fairness and straightforwardness. [13] It is a malevolent act that makes people unfit to serve the judiciary.[14]

Misconduct, on the other hand, is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. [15] In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.[16]

In this case, the OCA correctly found Leonido guilty of Dishonesty and Gross Misconduct for fraudulently intercepting the subject checks through the use of a falsified authorization letter purportedly signed by Empuesto and keeping such checks in his possession without the complainants' knowledge and authority. The subsequent return of the subject checks to their lawful owners is of no moment as it did not change the unlawful nature of Leonido's acts which is tantamount to stealing. Thievery, no matter how petty, has no place in the judiciary.[17]

As to the proper penalty to be imposed on Leonido, the Court notes that Dishonesty and Grave Misconduct are classified as grave offenses punishable by dismissal for the first offense.[18] Corollary thereto, the penalty of dismissal from service carries with it the following administrative disabilities: (a) cancellation of civil service eligibility; (b) forfeiture of retirement and other benefits, except accrued leave credits, if any; and (c) perpetual disqualification from re-employment in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution. [19]

In this instance, since Leonido had already been dropped from the rolls pursuant to the Court's Resolution dated

September 7, 2011 in A.M. No. 11-7-79-MTC, the penalty of dismissal from service can no longer be imposed upon him. Nevertheless, such penalty should be enforced in its full course by imposing the aforesaid administrative disabilities upon him.[20]

It must be emphasized that those in the Judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. The Institution demands the best possible individuals in the service and it had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system. As such, the Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus tainting its image in the eyes of the public.[21]

WHEREFORE, respondent Clerk II Bryan Antonio C. Leonido of the Municipal Trial Court of Mahaplag, Leyte, is found GUILTY of Dishonesty and Grave Misconduct and would have been DISMISSED from service, had he not been earlier dropped from the rolls effective January 3, 2011. Accordingly, his retirement and other benefits, except accrued leave credits, are hereby FORFEITED and he is PERPETUALLY DISQUALIFIED from re-employment in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., De Castro, Brion, Peralta, Bersamin, Del Castillo, Villarama, Jr., Perez, Mendoza, Reyes, and Leonen, JJ., concur.

[1] Rollo, pp. 25-27.

[2] Id. at 6.

[3] Id. at 7.

[4] Id. at 25 and 42.

[5] Id. at 19.

[6] Id. at 22.

[7] Id. at 42-43.

[8] Id. at 23-24.

[9] Entitled: Re: Dropping from the Rolls of Mr. Bryan Antonio C. Leonido, Clerk II, Municipal Trial Court, Mahaplag, Leyte.

[10] Rollo, pp. 42-45. Signed by Court Administrator Jose Midas P. Marquez, Deputy Court Administrator Thelma C. Bahia, and OCA Chief of Office – Legal Office Wilhelmina D. Geronga.

[11] Id. at 45.

[12] Id. at 43-44.

[13] OCA v. Musngi, A.M. No. P-11-3024, July 17, 2012, 676 SCRA 525, 530, citing Alenio v. Cunting, 555 Phil. 146, 155 (2007).

[14] See *OCA v. Acampado*, A.M. Nos. P-13-3116 and P-13-3112, November 12, 2013.

[15] *OCA v. Musngi*, supra note 13.

[16] See *Echano, Jr. v. Toledo*, G.R. No. 173930, September 15, 2010, 630 SCRA 532, 535.

[17] *OCA v. Musngi*, supra note 13, at 532, citing *Judge San Jose, Jr. v. Camurongan*, 522 Phil. 80 (2006).

[18] See Section 52(A)(1) and (3), Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service (RURACCS), which read:

RULE IV
PENALTIES

Section 52. Classification of Offenses. – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:

1. Dishonesty

1[st] Offense – Dismissal

x x x x

3. Grave Misconduct

1[st] Offense – Dismissal

x x x x

[19] *OCA v. Ampong*, A.M. No. P-13-3132, June 4, 2014. See also Section 58(a) of the RURACCS, which provides:

Section 58. Administrative Disabilities Inherent in Certain Penalties.

a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for re-employment in the government service, unless otherwise provided in the decision.

[20] See *Llamasares v. Pablico*, 607 Phil. 100, 103-104 (2009); and *Baquerfo v. Sanchez*, 495 Phil. 10, 20 (2005).

[21] See *OCA v. Acampado*, supra note 14.

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