

**LINA LAURIA-LIBERATO, COMPLAINANT, VS. NESTOR M. LELINA,
CLERK OF COURT II, MUNICIPAL CIRCUIT TRIAL COURT (MCTC),
NAGUILIAN-REINA MERCEDES, ISABELA, RESPONDENT.**

A.M. No. P-09-2703 [Formerly OCA I.P.I. No. 99-654-P]. September 05, 2011

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is an administrative complaint[1] dated May 14, 1999, filed on June 8, 1999, by complainant Lina Lauria-Liberato, against respondent Nestor M. Lelina, Clerk of Court II, Municipal Circuit Trial Court of Naguilian-Reina Mercedes, Isabela, for grave misconduct, dishonesty, and conduct prejudicial to the best interest of the service, for falsifying an Affidavit of Relinquishment and by enriching himself at their expense.

In his sworn Affidavit[2] dated March 24, 1999, complainant alleged that she is the granddaughter of Candido Lauria, who died on December 13, 1974 and is survived by her father Dionisio Lauria and her aunt, Juana Lauria. She declared that Candido Lauria was the owner and original claimant of Lot No. 4213 Cad-389-D, containing an area of 1,642 square meters, more or less, as evidenced by Tax Declaration Real Property No. 96-20-0020379. She averred that her grandfather allowed respondent to occupy a portion of the property and build a house thereon, provided that he would pay monthly rentals. However, respondent never paid any rentals. On March 16, 1999, complainant found out from the Office of the Municipal Assessor of Naguilian, Isabela that the name of her grandfather no longer appeared as owner of the said property and, upon further verification with the Office of the Register of Deeds and Bureau of Lands of the Province of Isabela, she discovered that the subject property had been titled in the name of respondent per OCT No. P-72874. It appeared that the issuance of the title under respondent's name was based on an Affidavit of Relinquishment dated October 3, 1997, purportedly executed by Candido Lauria wherein he relinquished or waived his right to claim the subject property in favor of the respondent. According to the complainant, respondent presented the said affidavit to the Bureau of Lands in support of his application for free patent over the subject parcel of land. As a consequence of the falsification and misrepresentation, OCT No. P-72874 was issued in respondent's favor and, subsequently, the same was subdivided into three lots, to wit: TCT No. T-288607 (which was later mortgaged with the Government Service Insurance System in the amount of P225,000.00), TCT No. 288608, and TCT No. 288609, all of which were registered under respondent's name.

Complainant appended the Affidavit dated March 24, 1999 to her letter-complaint[3] dated May 14, 1999, alleging that on October 3, 1997, respondent prepared an Affidavit of Relinquishment, signed by Candido Lauria, the contents of which stated that her grandfather, Candido Lauria, personally appeared before Deputy Public Land Inspector Luisa A. Paggao of the Bureau of Lands in Ilagan, Isabela, and relinquished, in favor of respondent, his rights as owner-claimant of Lot No. 4213 Cad-389-D, 1,642 square meters, (valued at P1,642,000.00 more or less), situated in Barangay Magsaysay, Naguilian, Isabela. Complainant disputed the validity of the Affidavit of Relinquishment as Candido Lauria could not have personally executed the same in view of the fact that he had earlier died on December 13, 1974. Further, she stated that a criminal complaint against respondent for Estafa thru

Falsification of Public Documents was filed with the Office of the Provincial Prosecutor of Ilagan, Isabela. She added that while occupying the position of Clerk of Court II, respondent enriched himself at their expense, which constituted gross misconduct, dishonesty, and conduct prejudicial to the best interest of the service.

In his Comment[4] dated January 15, 2000, respondent asserted that he co-owned 421 square meters of Lot No. 4213 Cad-389-D (registered in the name of Candido Lauria), which he acquired from the heirs of Dionisio Lauria (the deceased Dionisio being the legitimate son of the deceased Candido). Respondent averred that Juana Lauria (eldest daughter of Candido Lauria), as administratrix of the estate of Candido Lauria, requested him to cause the registration and titling of Lot No. 4213 Cad-389-D, with an agreement that he would eventually reconvey the said lot to the heirs of Candido Lauria. Thereafter, respondent engaged the services of a geodetic engineer who helped him prepare all the pertinent documents for the titling of the three parcels of land in his name. Respondent denied that there was intent on his part to appropriate the said parcels of land, and justified that the registration of the subject properties in his name was merely a way of expediting that proceedings for the application for free patent, as he and Juana Lauria previously had an agreement regarding reconveyance thereof to the heirs. In defense, he explained that he had already reconveyed the subject parcels of land, as evidenced by TCT No. 288745, which was already issued in the name of the heirs of Candido Lauria. He also denied enriching himself at the expense of the litigants, and appended copies of his Sworn Statement of Assets, Liabilities and Net Worth to controvert the allegations in the complaint.

Meanwhile, complainant lodged a criminal complaint against respondent for Estafa thru Falsification of Public Documents and, accordingly, an information thereof, docketed as Criminal Case No. 3210, was filed with the Regional Trial Court (RTC), Branch 16, Ilagan, Isabela.[5]

In a Resolution[6] dated August 30, 2000, the Court deferred action on the administrative complaint pending the final determination of the criminal case against respondent.

In a Decision[7] dated August 5, 2003, in Criminal Case No. 3210,[8] the trial court found respondent guilty beyond reasonable doubt of the crime of Estafa thru Falsification of Public Document[9] under paragraph 2 (a) of Article 315, in relation to Article 172 of the Revised Penal Code, and sentenced him to suffer the indeterminate penalty of imprisonment ranging from 10 years of prision mayor as minimum to 14 years of reclusion temporal as maximum and all the accessory penalties provided by law, and ordered respondent to execute the necessary deed to reconvey the properties subject of the suit to the legal heirs of Candido Lauria. The trial court found that there was no evidence that respondent took advantage of his position as Clerk of Court II in committing the offense charged.

The decision was appealed before the Court of Appeals. In a Decision[10] dated March 31, 2009, the CA affirmed the RTC Decision dated August 5, 2003.

On petition for review on certiorari by respondent, the Court, in a Resolution[11] dated July 27, 2009, denied his petition for late filing, failure to timely pay the docket and other legal fees and deposit for costs, his counsel's failure to indicate his MCLE Certificate of Compliance Number or Certificate of Exemption, and for being factual in nature and, likewise, in the same resolution, denied his motion for reconsideration.

In the Memorandum dated July 27, 2009, the Office of the Court Administrator (OCA) recommended that the complaint against respondent be redocketed as a regular administrative complaint and that respondent be found guilty of dishonesty and, accordingly, be dismissed from the service. The OCA found respondent's dishonest conduct to be gravely injurious to the noble and untarnished image of the court.

We adopt the findings and recommendation of the OCA.

The Code of Conduct for Court Personnel stresses that employees of 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. No other office in the government service exacts a greater demand for moral righteousness and uprightness from an employee than in the Judiciary.[12] Clerks of Court, in particular, are the chief administrative officers of their respective courts. They must show competence, honesty and probity, having been charged with safeguarding the integrity of the court and its proceedings.[13]

In *Rivara's Compound Homeowners' Association v. Cervantes*, [14] We emphasized the need for circumspect and proper behavior on the part of the court employees. Government officials and employees, more specifically those employed in the Judiciary, are bound by the highest standards of propriety and decorum to maintain the people's respect and faith in the Judiciary. Any transgression or deviation from the established norm of conduct, work related or not, amounts to a misconduct.[15] The image of a court of justice is mirrored in the conduct, official or otherwise, of the personnel who work thereat. Court employees are enjoined to adhere to the exacting standards of morality and decency in their professional and private conduct in order to preserve the good name and integrity of the court of justice.[16]

This exacting standard applies not only to the court employee's norm of conduct pertaining to the discharge of his official duties, but also to his personal dealings, which must be within the parameters of morality, propriety, and decency. As Clerk of Court II, respondent's act of executing an Affidavit of Relinquishment, dated October 3, 1997, which stated that Candido Lauria, who earlier died on December 13, 1974, personally appeared before the Deputy Public Land Inspector of the Bureau of Lands in Ilagan, Isabela and relinquished his rights, in favor of respondent, as owner-claimant of Lot No. 4213 Cad-389-D, was a willful perversion of the truth that greatly prejudiced the rights and interests of the heirs of the deceased as the rightful claimants. To compound the defraudation, respondent presented the said affidavit to the Bureau of Lands in support of his application for free patent over the subject parcel of land that eventually led to the issuance of OCT No. P-72874 in his name and, later, three other titles, also under his name. Although the execution of the document was done in his personal capacity, and not in any way related to his duties as Clerk of Court II, being a court personnel, the act of defraudation he perpetrated, which caused damage and prejudice of the heirs of the deceased, amounted to grave misconduct and clearly degraded the integrity of the Judiciary as a respectable institution. His reprehensible act should be sanctioned, and he should be purged from the Judiciary.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer; and the misconduct is grave if it involves any of the additional elements of corruption, such as willful intent to violate the law or to disregard established rules, which must be established by substantial evidence.[17] Respondent's defense that he already reconveyed the subject lot to the heirs of Candido Lauria, per TCT No. 288745, did not operate as an extenuating circumstance so as to exculpate him from administrative liability, nor would it be considered a mitigating circumstance that may lower the penalty to be imposed upon him. On the contrary, it even bolstered his commission of defraudation against the heirs of the deceased. In fact, the present administrative case can proceed independently of the criminal case, and the restitution of the property subject of the case, through a Deed of Reconveyance, would not operate to extinguish his administrative liability. Besides, he was compelled to effect the return of the property to the heirs only after the RTC, in its Decision dated August 5, 2003, categorically ordered him to execute the necessary deed to reconvey the properties subject of the suit to the legal heirs of the deceased.

Moreover, respondent cannot find solace under the cloak that he was not inspired by any improper motive and that he did not obtain any material benefit. Prudence dictates that, at the outset, he should not have caused the preparation of the Affidavit of Relinquishment and should have refrained himself from getting involved in the

family affairs of the complainant. He employed undue advantage upon the heirs of the deceased on the pretext that he would help facilitate the processing of the titles. He ought to know that his act, although a private transaction, constitutes the crime of estafa, which amounts to grave misconduct and dishonesty, and tarnishes the integrity and dignity of the Judiciary.

The conduct and behavior of everyone connected with the Judiciary, from the presiding judge to the lowest clerk, is circumscribed with the heavy burden of responsibility. And the Court will not hesitate to impose the ultimate penalty of dismissal from the service, for it has never and will never condone any conduct that would tend to diminish the faith of the people in the justice system.[18] For transgressing the benchmark of propriety and uprightness due to his grave misconduct, respondent's dismissal from the service becomes inevitable, pursuant to Section 52, A(3), Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service.[19]

However, since respondent compulsorily retired on September 28, 2010, after reaching the age of 65, the penalty of dismissal can no longer be imposed upon him. This fact, however, does not render the case moot and academic. Retirement of a Judiciary personnel from service does not preclude the finding of any administrative liability to which one shall still be answerable. In *Gallo v. Cordero*,[20] We ruled that mere cessation from office (i.e., due to compulsory retirement at the age of 70) of therein respondent judge, during the pendency of his case, does not ipso facto divest the Court of its jurisdiction over the same nor preclude it from determining his administrative liability. Thus:

[T]he jurisdiction that was ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent official innocent of the charges or declare him guilty thereof. A contrary rule would be fraught with injustices and pregnant with dreadful and dangerous implications.... If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he has served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation.[21]

In certain cases where therein respondents were found guilty of grave misconduct, but the penalty of dismissal is no longer possible in view of their compulsory retirement, the Court nonetheless imposed the corresponding disciplinary measures and sanctions, to wit: ordered the forfeiture of all benefits that therein employee may be entitled, except accrued leave credits, with prejudice to reemployment in any branch or instrumentality of government, including government-owned and controlled corporations,[22] or imposed a fine of P40,000.00 to be deducted from the retirement benefits of therein judge.[23] In another case, therein Human Rights Resource Management Officer II was found guilty of misconduct and the Court meted upon her a fine in an amount equivalent to six (6) months salary to be deducted from whatever leave and retirement benefits or privileges she may be entitled thereto.[24]

In the present case, the RTC, Branch 16, Ilagan, Isabela, as affirmed by the CA, found respondent guilty of Estafa thru Falsification of Public Document. However, the trial court ruled that there was no evidence that, in perpetrating the crime of estafa, respondent took advantage of his position, as Clerk of Court II, in order to gain leverage over complainant and the other heirs of the deceased, as his offense was not in any way related to the discharge of his official duties. Moreover, respondent's cessation from the service (due to his compulsory retirement), coupled with his 25 years and 25 days of continuous service[25] in the Judiciary without any previous derogatory record, warrant a penalty commensurate to the offense sought to be sanctioned. Considering that respondent ceases to be an employee of the Judiciary, the continuing tarnish on the image of the Judiciary sought to be curbed no longer exists. Hence, We find it appropriate to impose upon respondent the lesser penalty of fine in the amount of forty thousand pesos (P40,000.00), to be deducted from the retirement benefits or privileges he

may be entitled to receive from the government, with prejudice to reemployment in any branch, agency or instrumentality of the government, including government-owned and controlled corporations.

WHEREFORE, the Court finds respondent Nestor M. Lelina, Clerk of Court II of the Municipal Circuit Trial Court of Naguilian-Reina Mercedes, Isabela, who compulsorily retired on September 28, 2010, GUILTY of GRAVE MISCONDUCT and imposes upon him a FINE in the amount of FORTY THOUSAND PESOS (P40,000.00), to be deducted from the retirement benefits he may be entitled to receive from the government, with prejudice to reemployment in any branch, agency or instrumentality of the government, including government-owned and controlled corporations.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Sereno,[*] JJ., concur.

[*] Designated additional member, per Special Order No. 1028 dated June 21, 2011.

[1] Rollo, pp. 1-2.

[2] Id. at 3-4.

[3] Id. at 1-2.

[4] Id. at 10-11.

[5] Id. at 18.

[6] Id. at 21.

[7] Per Presiding Judge Isaac R. De Alban, id. at 22-30.

[8] Entitled as People of the Philippines v. Nestor M. Lelina, Clerk of Court [II], Municipal Trial Court, Naguilian-Reina Mercedes, Naguilian, Isabela.

[9] Respondent was charged with the crime of Estafa thru Falsification of Public Document under Article 171 of the Revised Penal Code, but was convicted of the crime of Estafa thru Falsification of Public Document under Article 172 of the Revised Penal Code.

[10] Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Bienvenido L. Reyes (now a Member of this Court) and Isaias P. Dicdican, concurring; rollo, pp. 63-73.

[11] Minute Resolution in G.R. No. 187837, entitled Nestor M. Lelina v. People of the Philippines.

[12] Concerned Employee v. Generoso, A.M. No. 2004-33-SC, August 24, 2005, 467 SCRA 614, 622-623.

[13] Office of the Court Administrator v. Villanueva, A.M. No. P-04-1819 (Formerly A.M. No. 04-6-133-MTC), March 22, 2010, 616 SCRA 257, 266, citing Judge De la Peña v. Sia, A.M. No. P-06-2167, June 27, 2006, 493 SCRA 8.

[14] A.M. No. 2006-18-SC, September 5, 2006, 501 SCRA 1.

[15] Id. at 8-9, citing Re: Disciplinary Action Against Antonio Lamano, Jr. of the Judgment Division, Supreme Court, 377 Phil. 364, 319 SCRA 350 (1999).

[16] Id. at 9, citing Re: Administrative Case for Dishonesty Against Elizabeth Ting, Court Sec. I & Angelita C.

Esmerio, Clerk III, Off. [of the] Clerk of Court, A.M. No. 2001-7-SC & No. 2001-8-SC, July 22, 2005, 464 SCRA 1, 15.

[17] Re Complaint of Mrs. Corazon S. Salvador against Spouses Noel and Amelia Serafico, A.M. No. 2008-20-SC, March 15, 2010, 615 SCRA 186, 203-204.

[18] Muin v. Avestruz, Jr., A.M. No. P-04-1831, February 2, 2009, 578 SCRA 1, 10.

[19] Civil Service Commission (CSC) Resolution No. 99-1936, dated August 31, 1999, and implemented by CSC Memorandum Circular No. 19, series of 1999.

[20] A.M. No. MTJ-95-1035, June 21, 1995, 245 SCRA 219.

[21] Id. at 226, citing Zarate v. Judge Romanillos, A.M. Nos. RTJ-94-1140 and RTJ-94-1218, March 23, 1995 which cited People v. Valenzuela, G..R.135 SCRA 712 (1985) and Perez v. Abiera, 64 SCRA 302 (1975).

[22] Re Complaint of Mrs. Corazon S. Salvador against Spouses Noel and Amelia Serafico, supra note 17, at 205.

[23] In Re: Partial Report on the Results of the Judicial Audit Conducted in the MTCC, Branch 1, Cebu City, A.M. No. MTJ-05-1572, January 30, 2008, 543 SCRA 105.

[24] Orfila v. Arellano, A.M. Nos. P-06-2110 and P-03-1692, February 13, 2006, 482 SCRA 280, 308.

[25] Respondent assumed office as Process Server on September 2, 1985. He was promoted to Clerk of Court II on April 8, 1997. He took a vacation leave (without pay) from March 1 to September 27, 2010 until he compulsorily retired on September 28, 2010.

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