

**HON. DENNIS PATRICK Z. PEREZ, PRESIDING JUDGE, BRANCH 67,
REGIONAL TRIAL COURT, BINANGONAN, RIZAL, COMPLAINANT, V.
ALMIRA L. ROXAS, CLERK III, BRANCH 67, REGIONAL TRIAL COURT,
B...**

A.M. No. P-16-3595 (Formerly OCA I.P.I. No. 15-4446-P). June 26, 2018

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PER CURIAM:

Before us is the Comment with Counter-Complaint[1] dated March 26, 2014 of Judge Dennis Patrick Z. Perez (Judge Perez), then Presiding Judge of Branch 67, Regional Trial Court, Binangonan, Rizal against Almira L. Roxas (Roxas), Clerk III, of the same court for grave misconduct, dishonesty, violation of Republic Act No. 3019 and CSC Memorandum Circular 13, s. 2007 on absences without approved leave.

The instant case stemmed from an administrative complaint for oppression and grave abuse of authority docketed as OCA I.P.I. No. 14-4190-RTJ, entitled Almira Roxas vs. Presiding Judge Dennis Patrick Z. Perez[2] where Roxas alleged that Judge Perez conspired with Atty. Nadia S. Diumano[3] (Atty. Diumano), then Clerk of Court V, to cause her removal from office without due process of law. However, in a Resolution[4] dated June 29, 2015, the Court dismissed said administrative complaint for lack of merit.

The Comment (with Counter-Complaint and Motion) dated March 26, 2014 on the above-mentioned administrative complaint filed by Judge Perez is now the subject matter of the present administrative complaint.

In the said Comment, Judge Perez asserted that Roxas has not been removed from employment. He recalled that at the time Roxas filed the complaint against him, she was still an employee of the court, albeit on absence without leave (AWOL) since October 14, 2013. Judge Perez explained that although Roxas filed her resignation letter on August 31, 2013, it was indicated therein that her resignation was to take effect only on December 31, 2013. However, without informing him or Atty. Diumano of her reasons, Roxas suddenly stopped coming to work on October 14, 2013. Judge Perez also alleged that on November 13, 2013, Roxas arrived at the office and asked him to sign her leave application and daily time record (DTR) for October 2013 but he refused. On the same day, Roxas withdrew her resignation.[5] Thus, in his Letter[6] dated January 9, 2014 to the Office of the Court Administrator (OCA), Judge Perez recommended that Roxas be dropped from the rolls and that her position be declared vacant considering that she has been absent for 88 days without approved leave.

Judge Perez further asserted that Roxas actually deserved the administrative complaint filed against her because of her admission of corruption alone before Atty. Diumano and the OCA. He pointed out that Roxas admitted in her complaint that she has been receiving money from bondsmen, to wit:

7. Incidentally, it has been a long practice in the office that we keep a common fund. One of the sources of the said fund is the little consideration that the bondsman was giving as a token of gratitude for allowing him to facilitate the posting of bail in Branch 67. Everybody in the office knew about it. Sometimes, the bondsman would course the money through me being the one who usually assist in processing the documents required for bail. The bondsman would insist on giving small amounts because according to him it was already part of his

commission. Unfortunately, there are times that I commingled those small amounts with my own money.

8. Sometime in November 2011, Atty. Diumano asked the stenographer if we still have a common fund. The latter answered in the negative because, allegedly, the bondsman was no longer giving money. In reaction, she called the bondsman and squeezed him into admitting that he was occasionally handling money through me. Thus, Atty. Diumano immediately called for a meeting and confronted me about it. I admitted having occasionally received those small amounts from the bondsman that inadvertently failed to remit to the common fund. I promised to return the money, but Atty. Diumano took all my workload for the month of December 2011 and gave to one of her staff. When the processing of the Release Order was transferred to a co-employee, they continued to receive an amount from the bondsman. It was only stopped when Atty. Diumano heard the Presiding Judge confronted a bondsman and asked her if she was giving money to his staff. When the performance rating for the last semester of 2011 came out, she gave me a grade of 21 (Please see Annex "A"). To my mind, this is outrageous because I have been receiving Very Satisfactory ratings before the incident. (Please see Annexes "B" to "G"). Since then, it has been a habit of Atty. Diumano to use the performance rating against her staff whom she doesn't like. In fact, when someone asked Atty. Diumano why her rating keeps on falling she answered that it is her prerogative to give a grade she wants to give;

x x x[7]

Judge Perez also averred that Roxas was consistently given low ratings because of her inefficiency, manifest insubordination and grave attitude problems towards her co-workers. He alleged that Roxas has always been tardy and absent in flag-raising ceremonies. He added that Roxas' incompetence adversely affected actual court procedures. Attached to the comment were the performance ratings of Roxas for January 1 to June 30, 2013 and July 1 to December 31, 2013, both reflecting a score of 17 which is equivalent to an unsatisfactory rating.[8]

Given the above-cited circumstances, Judge Perez, thus, prayed that Roxas be dismissed from the service based on her admission of corruption, two (2) consecutive unsatisfactory performance ratings, and for being AWOL.

Meantime, in a Resolution[9] dated August 11, 2014, the Court resolved to drop Almira L. Roxas from the rolls effective October 15, 2013 for being on AWOL. She is, however, still qualified to receive the benefits she may be entitled to under existing laws and may still be reemployed in the government.

On August 25, 2015, the OCA directed Roxas to submit her comment on the charges against her.[10]

In her Comment to the Counter-Complaint[11] dated December 14, 2015, Roxas reiterated her allegations and defenses in her complaint. She insisted anew that it has been a long practice already in their office to keep a common fund where one of the sources of the said fund is the amount that bondsmen give as token of gratitude for allowing them to facilitate the posting of bail. Roxas claimed that Atty. Diumano became suspicious that she was pocketing the money given by the bondsmen, thus, she was given unsatisfactory rating and started giving Judge Perez false information about her. Since then, Roxas averred that Atty. Diumano would use the performance rating against the staff whom she disliked.

Roxas asserted that Judge Perez and Atty. Diumano conspired with one another in causing her removal from office without due process of law. Roxas insisted that there was no concrete and convincing evidence that she asked or demanded money from the bondsmen in exchange of any favor. She prepared the documents promptly and expeditiously and no bondsman had ever complained that she did not act accordingly because of lack of consideration. If she ever received any amount from them, it was because the same was voluntarily given as it has become an accepted practice, and that it just so happened that she was the one who had direct dealing with them. She further insisted that if she ever received money from them, it was intended for the office and not for her. Roxas, thus, prayed that the counter-complaint filed by Judge Perez against her be dismissed for lack of factual and legal basis, and that she be reinstated to her previous position, or be transferred to other offices with the same

rank and benefits.

In his Reply[12] dated January 7, 2016, Judge Perez averred that Roxas wove again a web of lies in vain attempt to slander him and Atty. Diumano. He alleged that Roxas actually perjured when she stated in her complaint that she was removed from the service when she was actually on AWOL and corrupt. Judge Perez stated that he will no longer dwell on Roxas' comments considering the latter has already been dropped from the roll of employees. He lamented that his main concern was that Roxas incurred four (4) loans with the Supreme Court Savings and Loan Association, Inc. (SCSLAI) before she went on AWOL and left her co-makers carrying the burden of paying the same.

Judge Perez added that he requested the OCA to freeze or hold whatever benefits may be left to Roxas and to apply the same as payment of her loans so as to lift the financial burdens she placed on her friends and colleagues. He further manifested that although Roxas was already separated from the service for being on AWOL, the Resolution[13] dated August 11, 2014 stated that she can still be reemployed in the government, thus, Judge Perez prayed that the instant case be resolved on the merits as to perpetually disqualify Roxas from re-employment in the government.

In her Comment to the Complainant's Reply (with Manifestation)[14] dated February 22, 2016, Roxas reiterated her allegations in her comment. She claimed that she was unjustly branded as corrupt and incompetent. Roxas alleged that Judge Perez was just really bent on removing her from the service, and merely used the said practice of receiving money from bondsmen as a ground to force her to sign the resignation letter.

On September 14, 2016, the OCA recommended that the instant administrative complaint be re-docketed as a regular administrative matter. It found Roxas guilty of gave misconduct and recommended that she be dismissed from service. However, considering that she has been dropped from the rolls effective October 15, 2013 for being AWOL, the OCA instead recommended that Roxas be imposed of the accessory penalties of forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from re-employment in any government instrumentality, including government-owned and controlled corporation.

We adopt the findings and recommendation of the OCA.

As the Court pronounced in Judge Domingo-Regala v. Sultan,[15] no other office in the government service exacts a greater demand for moral righteousness and uprightness from an employee than the Judiciary. The conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, must always be beyond reproach and must be circumscribed with the heavy burden of responsibility. Public officers must be accountable to the people at all times and serve them with the utmost degree of responsibility and efficiency. Any act which falls short of the exacting standards for public office, especially on the part of those expected to preserve the image of the Judiciary, shall not be countenanced. It is the imperative and sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice.[16]

Section 2, Canon I of the Code of Conduct for Court Personnel, provides that "court personnel shall not solicit or accept any gift, favor or benefit based on any explicit or implicit understanding that such gift, favor or benefit shall influence their official actions," while Section 2 (e), Canon III states that "court personnel shall not x x x solicit or accept any gift, loan, gratuity, discount, favor, hospitality or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court personnel in performing official duties."

In the instant case, the fact that Roxas received money from bondsmen is beyond dispute as she categorically

admitted the same in her Complaint-Affidavit[17] and Comment[18] albeit insisting that said receiving of money from bondsmen was a common practice in their office, and that it was not for herself but for the office' common fund.

However, in the recent case of Cabauatan v. Uvero,[19] the Court reiterated its condemnation on some court employees' abominable use of "common practice" as a defense, to wit:

But what aggravates the misconduct is that Uvero, in an effort to exonerate himself, asserted that it is "common knowledge and practice" for party-litigants to give gifts as "tokens" of appreciation to government lawyers. Such statement from a court employee deserves condemnation as the Court would never tolerate any whiff of impropriety much less corruption. As court employee, Uvero should know that government employees and officials cannot receive any voluntary monetary considerations from any party in relation to the performance of their duties. It does not matter whether the money was not intended to be given to Uvero directly, or that Prosecutor Cabauatan refused the money, or that Uvero eventually returned the money to Reynancia, the fact remains that he received money from Reynancia, and thereafter, attempted to give said money to Prosecutor Cabauatan who is handling Reynancia's pending case. He should, thus, be held accountable even for mere receiving money from a litigant, more so, when the purpose of receiving money is to facilitate a favorable resolution of a pending case. Clearly, such actuations by Uvero constitute grave misconduct as said actions erode the respect for law and the courts.[20]

Indeed, it is irrelevant whether the money was not intended to be given to Roxas alone, the fact remains that she received money from bondsmen. The sole act of receiving money from litigants, whatever the reason may be, is antithesis to being a court employee.[21] Roxas' act of collecting or receiving money, no matter how nominal the amount involved, erodes the respect for law and the courts.[22] Roxas should, thus, be held accountable even for mere receiving money from bondsmen, more so, considering that she admitted that she is the one who had direct dealings with them by virtue of her position. It is also apparent that the purpose of giving money is to show gratitude for allowing the bondmen to facilitate the posting of bail in Branch 67.[23] Clearly, Roxas' condemnable act of receiving money from bondsmen was in relation to actions or proceedings with the Judiciary and the performance of her official duties which, thus, constitute grave misconduct.

In Ramos vs. Limeta,[24] grave misconduct is defined as a serious transgression of some established and definite rule of action (such as unlawful behavior or gross negligence, by the public officer or employee) that tends to threaten the very existence of the system of administration of justice an official or employee serves. It may manifest itself in corruption, or in other similar acts, done with the clear intent to violate the law or in flagrant disregard of established rules.

This Court has already heard various reasons given by court employees for receiving money from party-litigants. Thus, this Court has held that money given voluntarily is not a defense. Alleged good intentions to help party-litigants are self-serving and will not absolve the misconduct committed by court employees. There is no defense in receiving money from party-litigants. The act itself makes court employees guilty of grave misconduct. They must bear the penalty of dismissal.[25]

Finally, it must be emphasized anew that the Code of Conduct for Court Personnel requires that court personnel avoid conflicts of interest in performing official duties. It mandates that court personnel should not receive tips or other remunerations for assisting or attending to parties engaged in transactions or involved in actions or proceedings with the Judiciary. The Court has always stressed that all members of the Judiciary should be free from any whiff of impropriety, not only with respect to their duties in the judicial branch but also to their behavior outside the court as private individuals, in order that the integrity and good name of the courts of justice shall be preserved.[26]

Those serving in the Judiciary must carry the heavy burden and duty of preserving public faith in our courts and justice system by maintaining high ethical standards. They must stand as "examples of responsibility, competence and efficiency, and they must discharge their duties with due care and utmost diligence since they are officers of the court and agents of the law." We do not tolerate any misconduct that tarnishes the Judiciary's integrity.[27]

PENALTY

As to the proper penalty to be imposed on Roxas, the Court notes that grave misconduct is classified as a grave offense punishable by dismissal from service for the first offense.[28] 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.[29] In this instance, since Roxas had already been dropped from the roll of court employees pursuant to Resolution[30] dated August 11, 2014 in A.M. No. 14-6-192-RTC, the penalty of dismissal from service could no longer be imposed upon her.

Nevertheless, such penalty should be enforced in its full course by imposing the aforesaid administrative disabilities upon her.

WHEREFORE, respondent Almira L. Roxas, former Clerk III, Branch 67, Regional Trial Court of Binangonan, Rizal, is found GUILTY of Grave Misconduct and would have been DISMISSED from service, had she not been earlier dropped from the rolls of court employees. Accordingly, her retirement and other benefits, except accrued leave credits, are FORFEITED, and she 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.

Carpio,[*] Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Perlas-Bernabe, Leonen, Jardeleza, Caguioa, Martires, Tijam, Reyes, Jr., and Gesmundo, JJ., concur.

[*] Senior Associate Justice (Per Section 12, Republic Act No. 296, The Judiciary Act of 1948, as amended).

[1] Rollo, pp. 1-23.

[2] Id. at 62-66.

[3] Now a MCTC Judge of Pililla, Rizal.

[4] Rollo, pp. 31-32.

[5] Id. at 26.

[6] Id. at 25.

[7] Rollo, pp. 62-63. (Emphasis ours).

[8] Id. at 27-28.

[9] Id. at 44-45.

[10] Id. at 33.

- [11] Id. at 55-61.
- [12] Id. at 40-43.
- [13] Supra note 9.
- [14] Rollo, pp. 68-71.
- [15] 492 Phil. 482, 490-491 (2005).
- [16] Alano v. Sahi, 745 Phil. 385, 395 (2014).
- [17] Rollo, pp. 62-63, par. 7.
- [18] Id. at 59-60.
- [19] A.M. No. P-15-3329, November 6, 2017.
- [20] Emphasis ours.
- [21] Villahermosa, Sr. v. Sarcia, et al., 726 Phil. 408, 416 (2014).
- [22] See Office of the Court Administrator v. Panganiban, 583 Phil. 500, 508 (2008).
- [23] Rollo, pp. 62-63, par. 7.
- [24] 650 Phil. 243, 248-249 (2010).
- [25] Cabauatan v. Uvero, supra note 19.
- [26] Id.
- [27] Malibago-Santos v. Francisco, A.M. No. P-16-3459 (Formerly OCA IPI No. 13-4119-P), June 21, 2016, 794 SCRA 161, 176.
- [28] See Section 52 (A) (1) and (3), rule IV of the Revised Uniform Rules on Administrative Cases in Civil Service (RURACCS), which reads:

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:

x x x

3. Grave Misconduct

1st Offense-Dismissal

x x x

- [29] OCA v. Ampong, 735 Phil. 14, 22 (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.

[30] Supra note 9.

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