

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. EDGARDO A. MABELIN, RESPONDENT.

A.M. No. P-98-1275. March 26, 2003

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Edgardo A. Mabelin, Legal Researcher II of the Regional Trial Court (RTC), Branch 14, Ligao, Albay, was charged with Dishonesty and Incompetence in the performance of duty by the Office of the Court Administrator (OCA).

The following facts spawned the filing of the case:

An information for Illegal Possession of Firearm and Ammunitions was filed against Zaldy Gazer y Lizano on January 24, 1991[1] before the RTC of Albay where it was docketed as Crim. Case No. 2781 (the criminal case). The firearm was described in the Information as “COVINA model, Cal. 22, Serial No. F00797.”

During the trial of the criminal case conducted by Judge Jose S. Sañez, Presiding Judge of Branch 13 of the Albay RTC at Ligao, in his capacity as pairing judge of Branch 14 of the same court to which it was raffled, the firearm was submitted in evidence and entrusted on September 19, 1991 to the custody of respondent who had been Acting Clerk of Court of Branch 14 of the court since 1989.

Finding that the prosecution failed to prove that the firearm subject of the criminal case was the same firearm seized from the accused and, in any event, finding that the firearm was inadmissible in evidence, the accused was acquitted by Decision of February 6, 1992 rendered by Judge Sañez, the dispositive portion of which reads:

WHEREFORE, for failure of the prosecution to prove the guilt of the accused Zaldy Gacer Y Lizano beyond reasonable doubt, this case is hereby ordered dismissed. Consequently, unless said accused is detained for some other lawful cause, he is hereby ordered immediately released from further detention.

The .22 caliber gun and the rounds of ammunitions presented as the prosecution’s exhibits are hereby ordered forfeited in favor of the government, the same to be disposed of in accordance with existing laws. No pronouncement as to costs.

SO ORDERED.

Ligao, Albay, Philippines, February 6, 1992.[2] (Emphasis and underscoring supplied.)

On March 19, 1997, or more than five years after the decision in the criminal case was promulgated, Judge Sañez, then already the Executive Judge of the RTC at Ligao, sent a letter addressed to the Branch Clerk of Branch 14 of the court requesting a written report on the whereabouts of the COVINA firearm subject of the criminal case after finding out that the same was neither in the custody of the court nor with the Firearms and Explosives Unit (FEU) of the Philippine National Police (PNP). The letter was received by Atty. Jesus Orlando M. Quiñones, who was appointed Branch 14 Clerk of Court in 1995. Since respondent was the Acting Clerk of Court of Branch 14 at the

time the criminal case was tried and decided, Atty. Quiñones forwarded the letter to him.

In reply to the query of Judge Sañez, respondent explained[3] that in the later part of 1992, Ligao RTC Branch 13 Presiding Judge Romulo SG Villanueva, who was designated Acting Presiding Judge of Branch 14 of the court (on March 13, 1992, and later detailed to RTC Lipa in early 1993 up to late 1993 when he returned to the RTC Ligao, Branch 12), verbally requested that the custody of the firearm be transferred to him to which he acceded.

Judge Sañez thus brought the matter to the Office of the Court Administrator (OCA) by letter of April 14, 1997, with the suggestion that an investigation be conducted thereon. The OCA, in turn, directed Consultant Justice Narciso T. Atienza to conduct a fact finding investigation on:

- The whereabouts of the firearm, Covina Cal. 22 Serial No. F00797, subject matter of Criminal Case No. 2781 for Illegal Possession of Firearms and Ammunitions decided by Branch 14 of the Regional Trial Court at Ligao, Albay; [and]
- The report of Branch 14 Court Legal Researcher Edgardo A. Mabelin that custody of said firearm was transferred to then Acting Presiding Judge Romulo SG Villanueva.[4]

Judge Villanueva was later to claim during the investigation of the present case conducted by Justice Atienza as follows: He bought the firearm from respondent for P4,500 upon the latter's representation that he owned it and was a loose firearm. He, thereafter, gave the firearm to a friend who had it tested and volunteered to have it registered in his (Judge Villanueva's) name. About four months later, this same friend visited him to collect a P5,000.00 debt but as he (Judge Villanueva) had no cash and the firearm had not been registered in his name yet, he offered to his friend, and the latter agreed, to set-off his debt with the firearm. When the determination of the whereabouts of the firearm subject of the criminal case came about, he desperately tried to locate his friend but to no avail. He does not, however, know if the firearm sold to him is the same firearm subject of the criminal case.

Upon the conclusion of Justice Atienza's investigation during which Judge Villanueva appeared with counsel (respondent was without counsel as by his claim he could not afford the services of one), the Justice, crediting Judge Villanueva's explanation, recommended in his Report[5] dated May 14, 1998 that respondent be charged administratively for Dishonesty and that Atty. Quiñones be directed to file a criminal complaint for Malversation of Government Property with the Office of the Ombudsman for Luzon.

The material portions of Justice Atienza's Report read, quoted verbatim:

x x x The resolution of the instant investigations hinges on credibility. Your investigator went over the statements of the parties and, the records of Criminal Case No. 2781, thoroughly and found that the decision was promulgated on February 6, 1992, while Judge Villanueva was designated as Acting Presiding Judge of RTC Branch 14 only on March 13, 1992 (Exh. "3", Villanueva). In other words, Judge Villanueva was designated as Acting Presiding Judge of RTC more than one month after the decision of Criminal Case No. 2781 has been promulgated. This gives credence to asseveration of Judge Villanueva that he was not aware that the firearm sold to him by Mr. Mabelin, assuming that is was, is the firearm subject of Criminal Case No. 2781.

Judge Villanueva asserted that he bought a firearm, pistol type, from Mr. Mabelin but he can not recall its brand and serial number. He claimed that he paid Mr. Mabelin the amount of P4,500.00, in three installments. The assertion was not denied. Mr. Mabelin did not also re-act to the statement of Judge Villanueva at the initial hearing on March 2, 1998, that he requested a lawyer tried to accompany him because he might not be able to control his emotion in view of the falsity of his accusation. Your investigator noticed that Mr. Mabelin just bowed his head and stared at the floor after Judge Villanueva had stated his reason why he asked a lawyer friend to accompany him.

Mr. Mabelin heard Judge Villanueva said that the accusation against him that he asked for the custody of the firearm is false. He also heard the testimony of Judge Villanueva that he (Villanueva) paid P4,500.00 for the firearm. Confronted with these statements which can not simply be brushed aside, or be left unanswered, your investigator finds it strange why Mr. Mabelin chooses not to deny or rebut such statements. It must be remembered that Judge Villanueva and Mr. Mabelin were warned at the initial investigation that Criminal prosecution and/or administrative action will be recommended against the erring party. For not saying a word in the face of such accusation is an admission by silence.

x x x

The annotation found at the back of page 5 of the decision [“the firearm subject of this case, is in the custody of Judge Romulus SG. Villanueva, Acting Presiding Judge, RTC, Br. 14, Legato, Albany”] is undated and unsigned. (Exh. “2”, Villanueva & Exh. “B”, Mabelin). It could have been written by Mr. Mabelin after he received the letter of Judge Sañez dated March 19, 1997, which was endorsed by Atty. Quiñones or at the time after the record was given to him by Atty. Quiñones for delivery to your investigator. His answer to a question that he “made the annotation at the time, x x x, I don’t know where the gun, but immediately after,” is an admission that the annotation was made by Mr. Mabelin only after he received the letter of Judge Sañez. The annotation is not admissible for being self-serving.

On the other hand, your investigator does not entertain any doubt on the veracity of the testimony of Judge Villanueva. He answered all clarificatory questions clearly and without equivocation or hesitation. He cannot be faulted for buying the firearm in good faith. There is no evidence showing that Judge Villanueva had foreknown that the firearm that Mr. Mabelin offered to sell to him is a government property. Judge Villanueva asserted that he relied on the representation of Mr. Mabelin that the firearm is a loose firearm and, he is the owner of the said firearm.

As Acting Branch Clerk of Court, Mr. Mabelin received the COVINA firearm, Cal, 22 with Serial No. F-00797 when it was submitted in evidence by reason of the duties of his office. The firearm eventually became a government property after the decision has become final and executory. Mr. Mabelin failed to produce the firearm after he received the letter of Judge Sañez. His failure to produce the firearm upon receipt of the letter of Judge Sañez is a prima facie evidence that appropriated the missing firearm to his personal use.

In view of the foregoing, it is respectfully recommended that:

Atty. Jesus Orlando M. Quiñones be directed to file criminal complaint for Malversation of Government Property with the Office of the Ombudsman for Luzon and, an Administrative complaint for Dishonesty against Edgardo A. Mabelin, the Legal Researcher of RTC Branch 14 in Ligao, Albay.

x x x (Emphasis and underscoring supplied.)

By Supreme Court Resolution dated August 25, 1998,[6] the case against respondent was treated as an Administrative Complaint for “Dishonesty and Incompetence in the Performance of Duty” and was docketed as ADM-98-1275, the subject of the present case.

In the meantime, by letter of September 8, 1999, the OCA referred the criminal aspect of the case to the Ombudsman for the filing of appropriate court proceeding against respondent. The case, docketed as OMB-1-98-1963, was, however, by November 10, 1999[7] Order of the Deputy Ombudsman for Luzon, closed and terminated in view of the fact that Atty. Quiñones, who was directed to file a formal complaint under oath against respondent, had ceased to be connected with the Ligao RTC (in 1999), hence, “the absence of a vital witness to warrant further proceedings.”

In his Comment dated June 2, 2000,[8] respondent admits that while it was his duty to deliver the firearm to the proper authorities, he submits, however, there was no order issued to that effect by the trial court as provided for

in the Manual for Clerks of Court; he transferred the custody of the firearm to Judge Villanueva in obedience to the order of a superior; there is no truth to the claims of Judge Villanueva who should be faulted for violation of the Canons of Professional and Judicial Ethics, the Code of Ethical Standards for public officials and employees, the Anti-Graft and Corrupt Practices Law and allied penal laws; and it was unlikely and inappropriate for a judge to enter, without being suspicious, into a sale transaction involving an “unlicensed/unregistered” firearm by merely relying upon his (respondent’s) alleged misrepresentations.

Respondent was later to claim that he was “embarrassed” or ashamed to ask Judge Villanueva to acknowledge in writing the turn over to him of the firearm.

By Resolution dated July 18, 2000,[9] this Court referred the case to the Court of Appeals which was directed to raffle it among the associate justices, as it was raffled to Associate Justice Eduardo P. Cruz, for investigation, report and recommendation.

After conducting hearings on October 12, November 15, 16 and 23, 2000, Investigating Justice Cruz found respondent guilty as charged. The material portions of Justice Cruz’ REPORT[10] of April 19, 2001 are quoted as follows:

x x x

A Clerk of Court must, at all times, exhibit the highest sense of honesty and integrity (Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao del Norte, 287 SCRA 510). He should be the embodiment of competence, honesty and probity, charged as he is with safeguarding the integrity of the court and its proceedings (Rangel-Roque vs. Rivota, 302 SCRA 509). However, respondent has miserably failed to live up to these standards.

Instead of turning over the COVINA firearm to the FEU, respondent malversed the same. Representing that he was the owner of the firearm and that it was not involved in any crime or case, he sold the same to Judge Villanueva who paid P4,500.00 for it. Judge Villanueva is a purchaser in good faith and for value.

The act (selling the COVINA firearm) and omission (not turning over the firearm to the FEU for an unreasonable length of time) of respondent, who is involved in the administration of justice, violated the norm of public accountability and diminished the people’s faith in the judiciary. His blatant attempt to place the blame on a member of the bench demonstrates non-remorse and proclivity to send innocent parties to perdition for his own wrongdoing.

For his act and omission resulting in loss of government property, respondent deserves no less than the supreme penalty. It is, therefore, recommended that respondent be found GUILTY as charged and, accordingly, DISMISSED from the service with FORFEITURE of all leave credits and retirement benefits.

x x x (Underscoring supplied.)

In administrative proceedings, the quantum of proof necessary for a finding of guilt is only substantial evidence—such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[11]

After going over the records of the case, this Court is not prepared to hold that respondent represented to Judge Villanueva that the firearm was his and that Judge Villanueva in good faith “bought” it.

Judge Villanueva was a public prosecutor for ten years before he joined the judiciary on March 22, 1991. His detailed account of the circumstances which led to his alleged purchase of the firearm is simply incredulous. Thus he claimed: On seeing respondent inside the chambers of Branch 14 where he (the judge) was detailed, with a firearm tucked in his waist, his curiosity was aroused. He thus asked respondent to show the firearm to him. As requested, respondent, claiming that he owned the firearm, albeit it was not licensed, showed it to him.

Respondent added that it could be licensed as it was a loose firearm. Respondent then offered to sell the firearm to him and as respondent was not his “enemy” and Executive Order 107 dated December 24, 1984 issued by then President Aquino allowed loose firearms to be licensed, he brought it home and kept it for three days without, however, scrutinizing or playing with it^[12] or “thoroughly” remembering its brand, model, caliber or serial number.^[13] He then passed on the firearm to a friend of his, whose identity he withheld until the investigation conducted by Justice Cruz when he revealed his name, Robert Chu.^[14] Chu had the firearm “test fired” and later told him that he could have it licensed in his (Judge’s) name. He thereupon bought the firearm and paid respondent P4,500.00 in three installments without any written memorandum covering the transaction.

Would the Judge who had been a public prosecutor (in Rizal) for ten years be unfamiliar or unacquainted with firearms that he would not even know the model, brand or caliber of the firearm he “bought”? Would he readily believe that the unlicensed firearm belonged to respondent and, in any event, would he simply allow his fancy on the firearm to overpower him and fail to fault respondent for brazenly carrying in public view an unlicensed firearm? Would he who “bought” the firearm for P4,500.00 in three installments (in 1992) just set it off for a P5,000.00 debt just because he allegedly did not have cash to settle it?

Would not the version of respondent that the Judge asked that the firearm be turned over to him be more in accordance with human experience, given the Judge’s ascendancy over respondent?

Would not respondent’s claim of embarrassment or “shame” prevent him from asking the Judge to acknowledge in writing the turn over of the firearm to him more plausible?

But if there are nagging doubts about which version should be credited, the corroboration of respondent’s version by a Branch 12 utility worker at the time, Froilan R. Riñon, when he testified during the investigation before Justice Cruz, prods this Court to give respondent the benefit of the doubt. Thus, Riñon, who had been a utility worker at Judge Villanueva’s sala since July 28, 1987^[15] in the Ligao RTC, Branch 12 until he was transferred/promoted as Clerk II of the Municipal Circuit Trial Court of Oas, Ligao, Albay on Judge Villanueva’s instance, with his consent, declared: In May of 1992, he was asked by Judge Villanueva to fetch respondent from his office at Branch 14 and relay to him that he wanted to see the firearm-exhibit in *People v. Gacer*, the criminal case. He accordingly fetched respondent and the two of them repaired to Judge Villanueva’s chambers at Branch 12. Once inside, Judge Villanueva ordered him to prepare coffee as he did during which he heard the Judge say “Maurag na klaseng badil ini Ed digdi na ngona ini sakuya, ako na ang bahala kaini magturnover” (This is a nice kind of gun Ed, for the meantime just leave it here with me, I’ll take care of this and make the transfer/turnover of this gun to the proper authorities).

In fine, this Court does not thus find respondent guilty of DISHONESTY. It finds him, however, guilty of INCOMPETENCE IN THE PERFORMANCE OF DUTY.

“Incompetence in the Performance of Duty” has been defined^[16] as the manifest lack of adequate ability and fitness for the satisfactory performance of official duties by reason of the officer’s vice or vicious habits. This has reference to any physical, moral or intellectual quality the lack of which substantially incapacitates one to perform the duties of an officer.

Incompetence amounts or is equivalent to “inefficiency”^[17] which is descriptive of respondent’s actuations. For the Manual for Branch Clerks of Court explicitly mandates that all exhibits used and turned over to the Court and before the case/s involving such evidence shall have been terminated shall be under the custody and safekeeping of the Clerk of Court.^[18]

Yet respondent, who admittedly was aware of the above-said manual, failed to keep the firearm in his custody and

safekeeping or to transfer it to the proper authorities. His excuse in failing to transfer the firearm and ammunitions to the FEU of the PNP—absence of an order by the trial court for the purpose—does not lie. For the dispositive portion of the criminal case, quoted earlier, clearly stated that the firearm and the rounds of ammunition were “ordered forfeited in favor of the government, the same to be disposed of in accordance with existing laws.” In any event, if he was waiting for an order, he should have, if he could not turn down the order of Judge Villanueva for him to turnover possession of the firearm, timely made a written memorandum of such turnover on the records of the criminal case or in the list of exhibits in his custody. While an annotation of the transfer of possession of the gun to Judge Villanueva appears on the back of the decision in the criminal case, Justice Atienza rejected the same as inadmissible “for being self-serving,” there being no date and signature. If that annotation had indeed existed before Judge Sañez inquired on the whereabouts of the firearm, respondent could have readily proffered it in support of this reply to the query of Judge Sañez. But he did not.

Incompetence in the performance of official duties is, under Section 52 of the Uniform Rules on Administrative Cases in the Civil Service (URAC), a grave offense punishable by suspension from the service for Six (6) Months and One (1) Day to One (1) Year when committed for the first time. There is no showing that respondent had earlier committed or was faulted for the same charge.

WHEREFORE, Edgardo A. Mabelin is found guilty of INCOMPETENCE IN THE PERFORMANCE OF DUTY and is accordingly hereby SUSPENDED from the service for Six (6) Months without pay.

SO ORDERED.

Puno, (Chairman), Panganiban, Sandoval-Gutierrez, and Corona, JJ., concur.

[1] Records at 155-156.

[2] Id. at 17-21.

[3] Id. at 27.

[4] December 16, 1997 Memorandum, Records at 39.

[5] Records at 1-9.

[6] Id. at 248.

[7] Id. at 254.

[8] Id. at 262.

[9] Id. at 305.

[10] Report of Justice Cruz at 13-15.

[11] Office of the Court Administrator v. Sumilang, 271 SCRA 316, 324 (1997).

[12] TSN October 12, 2000 at 32.

[13] Ibid at 25.

[14] Id. at 34.

[15] TSN, November 16, 2000 at 8.

[16] Presidential Decree No. 971, “Providing Legal Assistance for Members of the Integrated National Police Who May Be Charged for Service-Connected Offenses and Improving The Disciplinary System in the Integrated National Police, Appropriating Funds Therefor and For Other Purposes.”

[17] Cuaresma v. Enriquez, 248 SCRA 454 (1995).

[18] Rule 136, Section 7, Revised Rules of Court cited in Manual for Branch Clerks of Court.

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