

RE: REPORT ON THE UNAUTHORIZED USE BY BERNARDO S. DITAN, AN EMPLOYEE OF THIS COURT, OF THE LITE ACE WITH PLATE NO. SEA – 746.*A.M. No. 02-2-09-SC. July 25, 2002*

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-02-2-09/>**SANDOVAL-GUTIERREZ, J.:**

On March 14, 1995, Bernardo S. Ditan was appointed in this Court as a casual employee of the Property Division, Office of the Administrative Services. On January 6, 1998, he was promoted as Utility Worker I and then on March 17, 1999, as Utility Worker II, same office. His work assignments include, among others, being a driver of this Court as the need arises.

On October 15, 2001, Mr. Leopoldo Garra, Chief of the Motorpool Section, directed Ditan to bring the Court's Lite Ace Toyota van bearing Plate No. SEA-746 to the Philippine Auto Rally in Makati City for check-up/repair of its air-condition system. In this connection, Mr. Jaime O. Mendoza, Chief of the Property Division, issued to Ditan Driver's Trip Ticket No. 4078 to serve as the latter's authority. Accordingly, at about 10:00 a.m. that day, Ditan left his office.

Four days later, or on October 19, 2001, Mr. Mendoza learned through Mr. Garra that the Lite Ace van figured in an accident on October 16, 2001 along Aguinaldo Highway in Barangay Amuyong, Alfonso, Cavite. Promptly, Mr. Mendoza issued a Memorandum[1] directing Ditan to explain in writing (1) the circumstances surrounding the accident; (2) the reason why he drove the vehicle to Alfonso, Cavite; and to submit the Police Investigation Report of the incident, as well as the pictures of the vehicle showing the extent of its damage.

In his undated written explanation received by the Office of Administrative Services on November 5, 2001, Ditan stated:

“Ako po ay nagbibigay ng salaysay sa pangyayari nuong Oktubre 16, 2001 kung saan ang Supreme Court Lite Ace SEA-746 na aking minamaneho ay naaksidente.

“Nuong Lunes, Oktubre 15, 2001, ako po ay nabigyan ng utos ni Leopoldo Garra, Hepe ng Motorpool na ipacheck-up ang aircon ng Lite Ace SEA-746 sa Phil. Auto Rally sa Makati. Ako po ay umalis ng Supreme Court nuong araw na iyon bandang alas 10:00 ng umaga patungo sa Auto Rally at may taglay na trip ticket. Nang natapos ayusin ng Auto Rally ang aircon ng nasabing Lite Ace ng bandang ala 1:00 ng tanghali, ako po ay dumaan sa aking tinitirhan upang mananghalian at ilagak ang aking mga damit na dala ko mula Nasugbu. Dito po ay nalaman ko na may emergency call mula sa Nasugbu, Batangas na ang aking ama ay malubha at kailangan nang dalhin sa San Lazaro upang malapatan ng wastong gamot ang kanyang locked-jaw o tetanus.

“Ako po ay sukdulang nabahala at nag-alala sa kalagayan ng aking ama at ako ay kaagad-agad na nagmadaling umuwi ng Nasugbu dala ang nasabing sasakyan nuong hapon ng Oktubre 15, 2001 pagkatapos ng aking pananghalian. Sa aking pag-alala, nakalimutan ko ng humingi ng paalam sa motorpool.

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“Sa aking pagdating sa Nasugbu nuong Lunes, Oktubre 15, 2001 ng bandang alas 3:00 ng hapon, aking nalaman mula sa aking kapatid na dahilan sa malubha na ang aking ama, ito ay isinugod sa Nasugbu Doctor’s Hospital. Nang ako ay dumalaw sa ospital, sinabi ng doktor na ang aking ama ay under observation ng dalawang araw at kung hindi magbabago ay kailangan dalhin sa San Lazaro Hospital. Kung kaya kinabukasan, Martes, Oktubre 16, 2001, ako ay umalis ng Nasugbu pabalik ng Maynila bandang 3:30 ng madaling araw. Nang aking tinatahak ang isang kurbada ng Aguinaldo Highway sa Alfonso, Cavite, bandang alas 4:00 ng madaling araw, mayroong biglaang sumalubong na trak na naka bright light at ako ay nasilaw. Sa pagkakataon na ito, ako ay tumapak ng preno ngunit sa kasamaang-palad ang sasakyan ko ay nag-skid at ito ay hindi ko na nakontrol at kusang gumulong patungo sa bangin.

“Ako po ay nagsisisi sa mga pangyayari gawa hindi ko na nakuhang humingi ng pahintulot para gamitin ang nasabing sasakyan. Alam ko po na pinahihintulutan ng opisina ang paggamit ng sasakyan para sa mga ganitong kalagayan. Kaya lang nga ito ay may paunang pahintulot. Ito po ang pagkukulang ko gawa sa pag-alala sa aking ama. Sa katunayan po, binalak ko pong hiram ang ambulansya, pero napag-isip-isip ko na ito ay pinahihiram lamang kapag Sabado at Linggo.”[2]

The Police Investigation Report[3] dated October 16, 2001 issued by the Alfonso Municipal Police Station reveals that the subject vehicle was running towards the east direction (of the Aguinaldo Highway at the vicinity of Barangay Amuyong of the same municipality), engaged in a sharp curve to the right, when it slipped causing it to fall to a ravine at the northern side of the highway. The vehicle sustained damages in the amount of P147,844.00 as shown by the Estimate Repair Cost[4] obtained by the Motorpool Section from the repair service center.

Ditan’s written explanation was forwarded by Mr. Mendoza to Atty. Eden T. Candelaria, Chief Administrative Officer of this Court, for appropriate action.

In her Memorandum dated February 5, 2002, addressed to Chief Justice Hilario G. Davide, Jr., Atty. Candelaria reported the unauthorized use of the subject vehicle by Ditan and recommended that he should be penalized therefor. She found him guilty of grave misconduct, stressing that while his reason in using the vehicle was very noble – to transport an ailing father – however, it was defeated by the fact that he used it without authority.

Atty. Candelaria believed that Mr. Ditan should be held solely responsible for the repair of the subject vehicle. However, considering that it is impossible for him to pay the cost of repair, the said amount may be claimed from the Government Service Insurance System (GSIS) pursuant to the "theft clause" of the comprehensive policy insurance procured by this Court over the subject vehicle. Thus, Atty. Candelaria recommended:

“In view of the forgoing, this Office most respectfully recommends that:

- Mr. Bernardo S. Ditan, Utility Worker II, Property Division, OAS be SUSPENDED for one (1) year without pay; and
- Mr. Jaime O. Mendoza, SC Chief Judicial Staff Officer, Property Division, be directed within five (5) days from receipt of the resolution to cause the repair of the subject vehicle through the GSIS.”[5]

This Court understands that Ditan’s act of driving the vehicle to Batangas was prompted by his desire to respond to the needs of his ailing father. However, his fault lies in the fact that he did not communicate to his office and ask permission to use the vehicle for such purpose. He had ample opportunity to do so, yet he failed. He admitted that the repair of the airconditioning unit of the vehicle was finished at 1:00 p.m. of the same day, October 15, 2001. Yet he did not return to this Court. Instead, he passed by his residence where he learned of the emergency call from Nasugbu concerning his father. At this point, he should have called up Mr. Gara or Mr. Mendoza or his officemates and informed them of his plan to assist his father. Again, when he was already in Nasugbu, he should

have made such call.

Clearly, by failing to ask permission from this Court before driving the vehicle to a place other than that specified in the Driver's Trip Ticket No. 4078 issued to him, Ditan committed neglect of duty. However, considering that he was then intensely worried about his father's physical condition, wanting to assist him immediately, his offense may be categorized as a simple neglect of duty punishable by suspension of 1 month, 1 day to 6 months if committed for the first time, as in this case, under Section 52, Rule IV of the Civil Service Commission Memorandum Circular No. 19, Series of 1999.

While we understand Ditan's plight, however, he is not excused from disregarding his official duty. He is required at all times to uphold public interest over his personal interest.[6] As an employee of the judiciary, he should be an example of integrity, uprightness and honesty.[7] The conduct and behavior required of every court personnel must always be beyond reproach and circumscribed with the heavy burden of responsibility. In fact, even a court janitor is as much duty bound to serve with the highest degree of responsibility as all other public officers and employees.[8]

WHEREFORE, Bernardo S. Ditan is adjudged GUILTY of SIMPLE NEGLECT OF DUTY for his failure to secure prior authority to use this Court's Lite Ace van with Plate No. SEA-746 and is hereby SUSPENDED WITHOUT PAY for SIX (6) MONTHS.

Mr. Jaime O. Mendoza, Chief of the Property Division, is directed within five (5) days from receipt of this Resolution, to cause the repair of the subject vehicle through the GSIS Comprehensive Insurance Policy.

SO ORDERED. Bellosillo, (Acting C.J.), Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, and Corona, JJ., concur.

Davide, Jr., C.J., on leave.

[1] Rollo, p. 6.

[2] Rollo, pp. 9-10.

[3] Rollo, p. 12.

[4] Ibid., p. 15.

[5] Rollo, p. 5.

[6] Rangel-Roque vs. Rivota, 302 SCRA 509 (1999), citing Gano vs. Leonen, 232 SCRA 98 (1994).

[7] Merilo-Bedural vs. Edroso, 342 SCRA 593 (2000).

[8] Sanco vs. Palileo, 91 SCRA 29 (1979).

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