

RE: ADMINISTRATIVE LIABILITIES OF THE SECURITY PERSONNEL INVOLVED IN THE ENTRY OF AN UNIDENTIFIED PERSON AT THE PHILIPPINE JUDICIAL ACADEMY.

A.M. No. 2003-18-SC. June 03, 2004

Ponente: CORONA, J.

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CORONA, J.:

This refers to the report dated November 10, 2003 of the Court's Security Division relative to the case of a certain person caught opening a drawer in one of the offices of the Philippine Judicial Academy (PHILJA) located at the 3rd floor of the Centennial Building, Padre Faura, Manila on November 5, 2003.

Based on the report, the man, later identified as Gaudencio Chavez Bohol, was caught by Nennette Z. Tapales in the act of opening the drawer of Atty. Joy Amethyst Martinez. When asked who he was looking for, Bohol answered he wanted to see a certain Atty. Enciso. There is no "Atty. Enciso" in PHILJA. Apparently, Bohol was able to enter the building without an entry pass. Because of this, the Complaint and Investigation Division (CID) of the Office of Administrative Services (OAS), through Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer, asked the following security personnel then on duty to explain why they should not be held administratively liable:

1. Mr. Lino G. Lumansoc Security Guard III
2. Mr. Ricardo U. Tubog Security Guard I
3. Ms. Etheldreda Velasquez Watchman II
4. Mr. Edgar C. Carbonel Watchman II

After investigation, the CID wrote a memorandum dated March 30, 2004 to the Chief Justice, through the Clerk of Court, Atty. Luzviminda D. Puno, which read:

On or about 12:15 p.m. on November 5, 200[3] at PHILJA, Ms. [Nennette] Z. Tapales, a Training Specialist I, assigned at the said office, saw a man stooping down in the cubicle of Atty. Joy Amethyst Martinez. The man was opening one of the drawers of Atty. Martinez. It was found out that he had no entry pass.

Ms. Tapales asked the man who he was looking for. He replied, "Si Atty. Insenso." The man looked alarmed. Upon stating that there was no such name in that office, Ms. Tapales led the man to the hallway to leave. While the man was waiting for the elevator, Ms. Tapales called her co-employee Lope Palermo to take a look at the man. She went back to her cubicle and then called-up the guard immediately. The guard, who was later on identified as Ricardo Tubog, was then the security assigned at the lobby of the Centennial Building, answered the call.

According to Ms. Tapales, she immediately informed the guard at the lobby. The transcript of her testimony is quoted as follows:

"Hello, si [Nennette] ito ng Philja, meron ditong naghahanap ng Atty. Insenso dito sa Philja nagpunta,

naghahalungkat ng drawer. Sinabi ko yon. Sabi ko nagbubukas ng drawer. Tapos sabi niya, hello, ma'am, sandali po. Hoy, hoy sinong hinahanap ninyo? Atty. Enciso na ang sinabi niya doon. A eto na ma'm. Tapos saka niya hinung-up yung phone." - (Italics supplied. Transcript of [Nennette] Z. Tapales on December 16, 2003)

At that juncture, Mr. Tubog called the man who had just come out from the elevator. He requested him for an identification. The man gave Mr. Tubog a driver's license bearing the name Gaudencio Chavez Bohol, with residence address at Bohol Avenue, Quezon City. He asked him what he was doing at the PHILJA and why he was opening the drawer of Atty. Martinez. He denied the accusation. Afterward, Mr. Tubog called on the radio his Shift-in-Charge, Mr. Lino Lumansoc, informing the latter that there was a problem at the lobby.

Mr. Lumansoc heeded the call and went to the lobby. There, Mr. Tubog allegedly told his Shift-in-Charge regarding the incident where, according to him, a man who was able to enter the Centennial Building without an entry pass was caught by Ms. Tapales opening a drawer at PHILJA. Mr. Tubog then, turned-over the man to Mr. Lumansoc, as a procedure they follow. After a short conversation by Mr. Lumansoc with the man, the former called Mr. Tubog and said, "parehistruhin mo na lang yan," afterwards, Mr. Lumansoc left.

Despite the order to let the man register, Mr. Tubog did not allow the man to register. Instead, he stated that it was already 12:20 p.m. then, and it was lunch break, thus no reason to let him in. After a brief conversation with Mr. Lumansoc, on the lame excuse that he would be having lunch outside, the man had his way out of the premises freely. Mr. Tubog, on the other hand, noted on a piece of paper the name and address of the person.

There was neither a blotter nor a report made by Mr. Lumansoc about the incident, which as a matter of course should be done.

Mr. Lino Lumansoc admitted during the investigation that he was immediately informed by Mr. Tubog about the man who gained an entry to the PHILJA at the Centennial Building, without the necessary entry pass. However, he denied having been informed about the opening of the drawer. If ever Mr. Tubog allegedly reported about the opening of the drawer at PHILJA, he said, that he surely did not hear it all. In support, he attached an Affidavit of Allan R. Cabuhat, a janitor from Sparrow Janitorial Services, who corroborated that he himself did not hear Mr. Tubog reported about the drawer being opened by the man. The affidavit, however, was not under oath.

During the investigation, the exact point of entrance of the man was not established. The only safe conclusion which can be deduced from all the lines of questioning to this effect, was that the man effected his entrance using the back door of the stairway from the construction area. The security guards assigned, prior to Mr. Tubog, at the registration and walk through metal detector at the lobby were Etheldreda Velasquez and Edgar Carbonel, respectively. At the investigation, the two (2) testified that it was impossible for the man to pass through the lobby unnoticed. They said that there were only few visitors at that time and that everybody was registered. They also established and confirmed the possibility that the man entered through the backdoor. Both of them confirmed that the said door was still open on November 5, 2003. After the incident, the backdoor was ordered closed. (Emphasis Ours)

In his defense, Mr. Lumansoc declared that he did not hear Mr. Tubog say that Bohol was seen opening a drawer inside the PHILJA office. Had he known about it, he would have taken the necessary steps to apprehend the man. He submitted the unsworn statement of Mr. Allan R. Cabuhat, a janitor from the Sparrow Janitorial Services, corroborating his declaration. All this notwithstanding, Mr. Lumansoc nevertheless found nothing unusual or alarming about the fact that Bohol was being "held" by one of our security officers.

Chief Administrative Officer Atty. Candelaria found Mr. Lino Lumansoc guilty of negligence in the performance of his official duties and recommended that the latter be reprimanded with a warning that a repetition of the same

or similar acts in the future will be dealt with more severely. The other three security personnel were exonerated for lack of proof of negligence in the performance of their duties.

After a thorough review of the records, we agree with the factual findings of the CID but we find the penalty recommended too light and certainly not commensurate with the gravity of the offense committed.

The factual circumstances show that Mr. Lumansoc was indeed negligent in the performance of his duties vis-à-vis the supervisory control required of him. After Bohol was turned over to him, Mr. Lumansoc still allowed him to take his lunch outside the Supreme Court compound instead of endorsing him to the Chief of the Security Division for appropriate action. We also find it suspicious why, after Bohol entered the building and was apprehended, Mr. Lumansoc still ordered Tubog to allow Bohol to register in the visitor's logbook. Assuming, for the sake of argument, that Mr. Lumansoc did not hear Tubog say that Bohol was found opening a drawer inside the PHILJA office, Mr. Lumansoc's utter lack of diligence to conduct further inquiry constituted dereliction of duty tantamount to negligence. In *Garcia vs. Catbagan*,^[1] we ruled:

x x x. However, the delay in the transmittal of the records could have been avoided had the respondents Jose S. Catbagan and Emmanuel Bantug, after knowing of the untimely death of Rustica Geronimo in 1973, complied with their duty to ascertain that the records in Criminal Case No. C-4029 (73) as well as the records of other cases which were in her possession, were actually sent to, and received by, the Court of Appeals. The failure of both respondents to take such step constitutes dereliction in the performance of their duties, which merits disciplinary action. Such apathy of the respondents is the bane of the public service.

As an officer of the Court, Mr. Lumansoc was duty-bound to perform his duties with skill, diligence and to the best of his ability, particularly where the safety or interests of court personnel may be jeopardized by his neglect or cavalier attitude towards his responsibilities. It was fortunate that his behavior did not cause any material damage to the Court. But it certainly could have put the security of the property and the lives of the employees of this Court in possible danger. Having been in the service for more than 30 years, Mr. Lumansoc should have been familiar with the standard operating procedure when a suspect is apprehended. Time and again, we have said that the conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. Mr. Lumansoc failed to comply with the strict and rigorous standards required of all security officers in the judiciary.

With regard to the other three court security personnel, we agree with the recommendation of the CID that they should be exonerated for lack of evidence.

Under the Uniform Rules on Administrative Cases in the Civil Service, simple neglect of duty, classified as a less grave offense, carries a penalty of suspension for one month and one day to six months for the first violation.^[2] Section 54 provides that the minimum penalty shall be imposed where only mitigating and no aggravating circumstances are present. Considering Mr. Lumansoc's 30 years of service in the government, we hereby impose the minimum penalty of suspension of one month and one day.

WHEREFORE, the Court finds Mr. Lino G. Lumansoc, Security Guard III of this Court, guilty of simple neglect of duty and hereby orders him **SUSPENDED** for one month and one day without pay. He is also **WARNED** that a repetition of this or similar acts will be dealt with more severely.

This order is immediately executory.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] 101 SCRA 804, 808 [1980].

[2] Rule IV, Section 52 (B).

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