RE: COMPLAINTS AGAINST MR. ALEXANDER R. BLANCA, CONSTRUCTION AND MAINTENANCE GENERAL FOREMAN, HALL OF JUSTICE, MORONG, RIZAL.

A.M. NO. 2005-09-SC. July 11, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

This administrative matter is a consolidation of three complaints, to wit: the (a) February 6, 200[3] sworn letter-complaint[1] of Sales T. Bisnar (Bisnar), Sheriff IV of Branch 78, Regional Trial Court (RTC), Morong, Rizal addressed to Executive Judge Candido Delos Santos; (b) March 11, 2005 letter-complaint[2] of Bisnar addressed to the Chief Justice of this Court; and (c) March 2, 2004 letter-complaint[3] of six (6) security guards of the Hall of Justice, Morong, all against Alexander R. Blanca (respondent), a casual employee whose appointment as Construction and Maintenance General Foreman, Hall of Justice, Morong, has, for the last nine years, been renewed every six months.

In his sworn complaint of February 6, 200[3], Bisnar sought the investigation of respondent on the following grounds:

> - Unauthorized taking out of one (1) gallon Vulca Seal on the night of July 27, 2002 at about 7:15 as per record of the Security Guard Log Book . . .;
>
> - Tolerance of the absences and abandonment of duty by his underling Mr. Onofre Francis Crisologo, also of Maintenance Section, who from the last quarter of 2002 no longer report for work and seldom seen in the compound even on the first month of the new year;
>
> - Rotting parts of the building that should have been repaired but unattended that poses great risks and danger to the life of court employees and the litigants;
>
> - Qualifications of Mr. Blanca do not suit with the job of a maintenance supervisor and should be immediately revoked of his appointment.[4](Underscoring supplied)

In his March 11, 2005 letter-complaint, Bisnar charged respondent with bringing out of assorted items from the Hall of Justice of Morong on three different occasions, all of which were recorded in the logbook of the security guards, thus:

> - May 23, 2004 at 11:15 A.M. – 1 pc. plyboard;
>
> - June 6, 2004 at 7:00 P.M. – 1 roll electrical tube;
>
> - July 4, 2004 at 10:25 A.M. – 1 pc. plywood.[5] (Underscoring supplied)

Bisnar went on to inform that on those three occasions, the guards on duty asked respondent for the gate pass in bringing out the items but the latter answered, "Remember that I am the one signing your Daily Time Records,"[6] drawing the guards to just record the incidents in the logbook.

The third letter-complaint of March 2, 2004 which was filed by Leonardo Golocino, Jr., Jonathan Fronda, Irineo Sobusa, Newell Barnachea, Rogelio Paulite and Sofronio Taisan, Jr., security guards all of the Combined Blue Dragon Security Services, Inc. who were assigned at the Hall of Justice of Morong, charged respondent with an overbearing and arrogant manner of supervision. They relate that on several occasions, respondent scolded them in front of many people even for the slightest mistake they committed, and in one instance, one of them received a mouthful of insults from respondent regarding the implementation of the policy on parking of vehicles in front of the Hall of Justice.[7]

Denying the charges against him, respondent, in his Comment[8] of February 27, 2003, gave his side as follows:

There was no need to ask permission from his superior with respect to the bringing out of the Vulca Seal can, it being empty.

On his alleged tolerance of the absences of Onofre Francis Crisologo who was reported to have stopped reporting for work effective the last quarter of 2002, respondent averred that Crisologo had been reporting directly to Atty. Myrna Directo, Clerk of Court VI, effective October 2002.

As for the alleged unattended rotting parts of the Hall of Justice, respondent averred that he had already sent to this Court a Maintenance Report for the last quarter of 2002 stating the repairs and installations made in the hall.

On the claim that he is not qualified for his position, respondent averred that he has the necessary academic and employment background.

Respecting the questioned bringing out of items in May and July 2004, respondent, in his Comment[9] of May 19, 2005, explained that he was requested by Assistant Prosecutor of Rizal Wilfredo Oca to fabricate a wooden filing cabinet and a typing table for which he bought a piece of plyboard and a piece of plywood. As he has a complete set of carpentry tools and equipment at home, he told Prosecutor Oca that he would just bring the items home so he could accomplish the requested job expeditiously.

As regards the electrical tube which he brought out without permission, respondent explained that during the first week of June 2004, he was requested by Emma Dionisio, Clerk of Court of the Municipal Trial Court of Morong, to install an additional electrical outlet for the air conditioning unit in the staff room. He was given money to, and he did, buy 15 meters of electrical tube. He thereupon brought out the electrical tube from the Hall of Justice to show it to the municipal electrician of Morong so the latter could calculate if there was still need for him to buy some more.

After investigation, the Office of Administrative Services (OAS) of this Court came out with the following findings:

> - Respondent Blanca has not shown any overbearing conduct or arrogant manner in his supervision over the guards on duty. What Mr. Blanca might have demonstrated is bossy and tyrannical to some but reasonable to others. This Office believes that this is merely a simple case of misunderstanding between Security Guard Sobusa and respondent Blanca on the issue of parking slot policy. To remedy the situation, all of the security guards wrote an apology to respondent Blanca hoping to restore their friendships that existed between them prior to the incident. In short, the case was amicably settled. Be that as it may, respondent Blanca is nonetheless reminded to be more courteous and respectful to everybody at all times;
>
> - As to the alleged acts of taking out one (1) pc. Plyboard, one (1) pc. Plywood and one (1) roll electrical tube, respondent Blanca admitted to have brought these items out but denied that they were part of the supplies issued by the Court. Perusal of the records show that no plyboard and plywood were issued for the HOJ of Morong, Rizal except on February 21, 2002. Roll of electrical tube, however, was not among the supplies

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delivered. This Office is persuaded that respondent Blanca has substantially established by evidence that the materials mentioned-above have been separately bought, hence not part of the supplies issued by the Court vis-à-vis the entries recorded on the Security Logbook. First, the Affidavits of Prosecutor Oca and Mrs. Dionisio on the purchase of plyboard and plywood, and the electrical tube, respectively with attachments of the receipts of purchases, and second, the Maintenance Report for the 2[nd] Quarter of 2004 stating thereon that on the report of repair and installation, "the maintenance fabricated wooden filing cabinet at the Office of the Fiscal[,]" an evidence that supports Mr. Blanca's claim that Prosecutor Oca had indeed requested him to fabricate wooden filing cabinet. These are adequate proofs that support Mr. Blanca's claim as against complainant, hence, a favorable conclusion to dismiss the charges is appropriate.

- However, as to the charge of taking out one (1) gallon Vulca Seal without permission or proper authority, this Office is not impressed with the allegation of the respondent nor has reason to doubt the testimony of Security Guard Golocino, Jr. This Office therefore submits that respondent Blanca is found guilty thereof which constitutes dishonesty and grave misconduct. Mr. Blanca's allegation that it was an empty can of Vulca Seal cannot prevail over the clear, positive, and categorical assertions of the security guard who witnessed him taking out the same considering that an entry was made in the Security Logbook after respondent Blanca failed to show any GATE PASS for that matter. Moreover, the guard's positive identification that it was an "unopened can" of Vulca Seal, far from being an empty can with no cover as asserted by respondent Blanca since according to the witness he was just a meter away from the respondent when it was brought out. Besides, if indeed it was just an empty can, normally, it is a natural reaction of a person who is doing nothing illegal to complain, object or protest any false recording/entry made in the logbook just to prove that the can was empty. Respondent can easily call the attention of the guard by showing that the can was empty. However, respondent did not bother to contest the entry made by the guard-on-duty because the truth is the can is not empty. Respondent would somehow use this lame excuse to conceal such taking. Yet, respondent failed to. Thus, when he testified, he said:

"Q: Di ba kahit sinong bumasa n'yan (referring to the Security Logbook), kahit kayo, ang lumalabas dito may laman "yung inilabas n'yo" S'yempre ho ang tendency n'yan, kakausapin n'yo "yung guwardiya, "Bakit naman nilista mo ako d'yan, eh lata lang naman nilabas ko?"

A: Hindi na po. Natural lang po sa trabaho ng mga guwardiya. Kasi kapag magre-react "Bakit mo inano yan?" baka sabihin nila may laman. "Yun naman po ang akin doon kaya hindi po ako. Ok lang, trabaho nila yan.

Q: So hindi na po kayo gumawa ng komentaryo?

A: Hindi. Hindi po ako.. Sa akin po normal lang po, sa kanilang trabaho "yun eh, na ilista po kung ano.."

The Security Logbook shows the entries as follows:

"Golocino, L.Dampog, S.RTC Morong7-27-02x x x

1810 Hrs – x x xNote: Light of PAO Office open1915 Hrs. – Mr. Blanca, A. went in of PAO Office; Switch off the light. After few min. went out with one (1) gallon Vulca Seal; went home.x x x"

It would seem respondent Blanca easily takes little things or supplies of the Court out of the Hall without permission or proper authority by justifying this act simply because what was involved were perhaps good as junks and garbage anyway. Thievery, no matter how petty or small the value, is still thievery and has no place in the Judiciary.

Court personnel are charged with the duty and responsibility of safeguarding and protecting court property in whatever condition or state it may be found. One should not, and never, even attempt to pilfer or steal, dissipate or destroy the same. But what makes respondent's act detestable is the idea that he is part of the institution that is in the forefront in the campaign against the commission of the crime. He is thus the least expected to do an act that can cast doubt on the institution's sincerity in the performance of its role.

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> Under the Civil Service Law and its implementing rules, dishonesty and grave misconduct are grave offenses punishable by dismissal from the service with forfeiture of all benefits, excluding leave credits, if any, and with prejudice to re-employment in any branch or agency of the government, including government-owned or controlled corporations.
>
> While the rules allow the consideration of any mitigating circumstances and provide the manner of imposition of the proper penalty, this Office is not discounting the presence of such circumstances surrounding his case. Since this is respondent's first offense committed and he has been in the service quite long, respondent is therefore entitled to a penalty lesser than dismissal. Respondent Blanca was hired as casual employee since 1998 who up to the present is holding the position Construction and Maintenance General Foreman in the Hall of Justice, Morong Rizal. His appointment therefore is renewable every six (6) months subject to the prerogative of the appointing authority. Being a holder of a casual appointment, respondent has no security of tenure and can be separated from the service anytime. Instead of imposing the penalty of dismissal from the service, in the interest of justice and for humanitarian reason as held by the Court in Re: Anonymous Complaint against Ms. Rowena Marinduque, Casual Utility Worker II, assigned at PHILJA Development Center, Tagaytay City, Mr. Blanca's services should be terminated because of his questionable actions which amount to breach of trust and confidence.[10] (Italics in the original; emphasis and underscoring supplied)

The OAS accordingly recommended the termination of respondent's services without prejudice, however, to reemployment, thus:

> WHEREFORE, premises considered, this Office respectfully recommends that the foregoing provision of the Omnibus Rules Implementing Book V of EO 292 be waived to subject-employee Mr. Alexander R. Blanca, Construction and Maintenance General Foreman, Hall of Justice Morong Rizal. Instead, his services be terminated effective immediately but without prejudice to reemployment in any branch or agency of the government, including government-owned[-]or[-] controlled corporations.[11] (Emphasis supplied)

This Court finds the evaluation of the OAS well-taken.

Respondent's passive reaction as reflected in his italicized testimony during the investigation of the case which is quoted in the OAS report, after the guards reported his bringing out of a gallon of Vulca Seal, even calling it normal, despite his claim that the can was empty, seals the case against him.

That respondent brought the stuff out on July 27, 2002, a Saturday-non-working day, at nighttime, after his attention was called to, as he did, switch off the light in the Public Attorney's Office of the Hall of Justice, following which he proceeded to the Maintenance Office, all the more lends credence to the report of the guard on duty that the stuff was a gallon "full" of Vulca Seal.

Leonardo Golocino, Jr., the security guard of RTC Morong, Rizal who was on duty when the taking out of the questioned item occurred, testified during the investigation conducted at the Conference Room, Office of Administrative Services on November 14, 2005, as follows:

> Q
>
> Iyun sa vulca seal ng inilabas ni Mr. Blanca kasi mayroon siyang allegation sa sagot niya na balde lang 'yun.
>
> A
>
> Hindi po kasi iba po ang dala sa may laman sa walang laman at saka ang distance namin ay one meter lang.
>
> Q
>
> Pero nagkaroon ka ba ng chance na hawakan ang balde?

A

Hindi po pero kung lata iyun eh maliwanag ang lata at talaganghindi pa nga po nabubuksan. Hindi pa sila gumagawa sa bubong o naglalagay ng vulca seal. Dalawang gallon po na vulca seal at mga pintura.

Q So, tingin mo lang na may laman talaga? Kasi sabi niya gagamitin lang niya ang lata kaya lata lang ang kinuha niya.

A May laman po talaga.

Q Ano bang klase iyun?

A Lata po na isang gallon.

Q So, tingin mo malinis pa siya as in hindi pa nabubuksan?

A Malinis pa po talaga.

Q At saka papaano ang paghawak niya sa vulca seal?

A

Iba po ang pag hawak sa may laman at saka wala. Magsu-sway po ang lata kung walang laman.

Q Hindi mo ba sinasabi iyan dahil galit ka kay Mr. Blanca dahil hindi maganda ang pag-trato sa iyo?

A

Alam n'yo Sir, wala po kaming personal na alitan. Sa katunayan po eh barkada po kami niyan kaya lang ang paglalabas ng item na ganyan eh hindi naman kami magpapabaya kasi kaya nga po kami nandoon para pangalagaan ang gamit ng gobyerno kaya inila-logbook namin kung ano ang mga nailalabas.

x x x x[12] (Italics and underscoring supplied)

Section 5 of Canon 1 of the Code of Conduct for Court Personnel[13] mandates that "[c]ourt personnel shall use the resources, property and funds under their official custody in a judicious manner and solely in accordance with the prescribed statutory and regulatory guidelines or procedure." Similarly, Section 4(A)(a) of Republic Act No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, requires that "[a]ll government resources . . . must be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public funds and revenues."

Court supplies are intended for public use. That is why Court personnel are charged with the duty and responsibility of safeguarding and protecting court property in whatever condition or state it may be found.[14] Pilferage of such property by those employed in the judiciary is reprehensible as it tarnishes the image of the institution which is in the forefront in the campaign against the commission of crimes. No matter how petty, thievery has no place in the judiciary.[15]

Thus, in Baquerfo v. Sanchez,[16] this Court declared that the pilferage and sale of court properties – "unserviceable" desk fans and electric stove – by a legal researcher of the RTC of Lianga, Surigao del Sur, is grave misconduct for which he should, had he not resigned from office, have been dismissed with prejudice to reemployment in the government, including government-owned-or-controlled corporations.

In Re: Pilferage of Supplies in the Stockroom of the Property Division[17] where the therein respondent, an employee of the Shipping and Delivery Section, Property Division, Office of the Court Administrator who was in-charge of the issuance and distribution of office supplies to different offices and divisions, was caught stealing

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several office supplies of the court, this Court dismissed him for dishonesty and grave misconduct.

Under Section 52 of Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, dismissal is the prescribed penalty for grave misconduct and dishonesty, being classified as grave offenses, even for first-time offenders. Section 58 thereof provides that "[t]he penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision." Section 53,[18] however, of the same Rules acknowledges the applicability of mitigating, aggravating and alternative circumstances which attended the commission of the offense in the determination of the penalties to be imposed, such as habituality and length of service.

Since respondent has been employed for quite a long period of time – since March 9, 1998[19] – as a casual Construction and Maintenance General Foreman, and considering that this is his first offense, the recommendation of the OAS to immediately terminate his services, without prejudice to reemployment in any branch of the government, including government-owned-and-controlled corporations, is in order.

WHEREFORE, the services of respondent ALEXANDER R. BLANCA, Construction and Maintenance General Foreman, Hall of Justice, Morong, Rizal is TERMINATED effective immediately upon receipt of this decision, without prejudice to reemployment in any branch of the government, including government-owned-and-controlled corporations.

SO ORDERED.

Puno, C.J., Ynares-Santiago, Carpio, Austria-Martinez, Corona, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr., and Nachura, JJ., concur.
Quisumbing, J., on official leave.
Sandoval-Gutierrez, J., on leave.

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[1] Rollo, p. 5.

[2] Id. at 30-31.

[3] Id. at 16-17.

[4] Id. at 5.

[5] Id. at 30.

[6] Ibid.

[7] Id.at 16.

[8] Id.at 6-7.

[9] Id. at 73

[10] Id. at 185-190.

[11] Id.at 190.

[12] Id.at 167.

[13] Promulgated on April 13, 2004 and took effect on June 1, 2004.

[14] Baquerfo v. Sanchez, A.M. No. P-05-1974, April 6, 2005, 455 SCRA 13, 22.

[15] Id. at 21.

[16] Supra note 14.

[17] 389 Phil. 45 (2000).

[18] Section 53. Extenuating, Mitigating, Aggravating, or Alternative Circumstances. – In the determination of the penalties to be imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

- Physical illness

- Good faith

- Taking undue advantage of official position

- Taking undue advantage of subordinate

- Undue disclosure of confidential information

- Use of government property in the commission of the offense

- Habituality

- Offense is committed during office hours and within the premises of the office or building

- Employment of fraudulent means to commit or conceal the offense

- Length of service in the government

- Education, or

- Other analogous circumstances

Nevertheless, in the appreciation thereof, the same must be invoked or pleaded by the proper party; otherwise, said circumstances shall not be considered in the imposition of the proper penalty. The Commission, however, in the interest of substantial justice may take and consider these circumstances.

[19] Rollo, p. 126.

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