

RE: ANONYMOUS COMPLAINT AGAINST MS. HERMOGENA F. BAYANI FOR DISHONESTY.*A.M. No. 2007-22-SC. February 01, 2011*

Ponente: PERALTA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-2007-22/>**PERALTA, J.:**

Before this Court is an Anonymous Complaint for Dishonesty against Ms. Hermogena F. Bayani, SC Chief Judicial Staff Officer, Leave Division, Office of Administrative Services (OAS), Office of the Court Administrator (OCA).

The Anonymous complainant alleged that Bayani, during her application for promotion to her present position as SC Chief Judicial Staff Officer of the Leave Division, OAS-OCA, failed to disclose in her Personal Data Sheet (PDS) that she was previously charged in an administrative case in 1995. It appeared that in a Memorandum dated February 9, 1995 issued by the OAS and signed by then Chief Justice Andres R. Narvasa, Bayani was found remiss in the performance of her duties and was recommended that she be admonished. Complainant added that Bayani's previous administrative record was discovered only during the investigation relative to A.M. No. 2007-08-SC- In Re: Fraudulent release of retirement benefits of Jose Lantin, former Presiding Judge, Municipal Trial Court, San Felipe, Zambales, wherein Bayani was one of the personnel under investigation. Consequently, Bayani's failure to disclose said information misled the Court's Selection and Promotion Board (SPB) in evaluating her application for promotion which is tantamount to dishonesty.

On October 1, 2007, the OCA directed Bayani to submit her comment on the instant complaint.[1]

On October 8, 2007, in her Comment/Memorandum,[2] Bayani presumed that the instant complaint stemmed from her answers to question nos. 25 and 27 in her PDS, which she filled up on July 27, 1999. To wit:

25. Do you have any pending a) administrative case [] Yes [/] No

x x x x

27. Have you ever been convicted of any administrative offense? [] Yes [/] No

x x x x

Bayani, however, explained that she answered "No" to question no. 25, since the administrative case against her was already decided in 1995, and before she accomplished her PDS in 1999. Thus, Bayani believed that she had no more pending case at the time she accomplished her PDS.

With regard to question no. 27, wherein she again answered in the negative, Bayani explained that it was due to her understanding that there was no conviction on the administrative case against her, because she was merely admonished and warned therein. She pointed out that pursuant to Section 15, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292, admonition and stern warning are not considered penalties. She claimed that by answering "no" to question no. 27, it was not her intention to gain advantage of getting the

promotion to her current position, SC Chief Judicial Staff Officer, as she was, in fact, the most qualified candidate for the position being the Officer-in-Charge since 1997.

Moreover, Bayani added that the admonition was merely by virtue of a Memorandum issued by the OAS albeit signed by then Chief Justice Narvasa. She claimed that the memorandum was not the current A.M. Resolution issued by the Court En Banc, or through its divisions.

Finally, Bayani averred that if her act was indeed wrong, she, however, did not intend to defraud the government, or prejudice anyone.

On October 10, 2007, the OCA referred the instant case to Atty. Eden T. Candelaria, Chief of Office, Office of Administrative Services, Supreme Court, for appropriate action.[3]

On January 7, 2008, in a Memorandum,[4] Atty. Candelaria recommended that Bayani be dismissed from service having been found guilty of Dishonesty through falsification of official documents.

The OAS maintained that while admonition or stern warning are not considered penalties, Bayani remained guilty of the charges in the previous administrative complaint against her as per OAS Memorandum dated February 9, 1995. Hence, her failure to disclose such finding of guilt in the PDS she filled up, Bayani becomes administratively liable for dishonesty.

Furthermore, the OAS pointed out that Bayani could have mentioned in the PDS that there was a previous administrative case against her, but she was only admonished instead of choosing to conceal it. The OAS emphasized that while admonition and stern warning are not penalties, still, her non-disclosure thereof constituted as dishonesty. In essence, the OAS maintained that there is no substantial difference in using "convicted" and "guilty" as long as what is intended to be made known is the existence of a previous finding of administrative liability. Thus, the OAS failed to appreciate Bayani's defense of good faith as well as Bayani's length of service.

We disagree with the OAS's recommendation.

Indeed, dishonesty is defined as "intentionally making a false statement in any material fact, or practicing or attempting to practice any deception or fraud in securing his examination, registration, appointment or promotion." Thus, dishonesty, like bad faith, is not simply bad judgment or negligence. Dishonesty is a question of intention. In ascertaining the intention of a person accused of dishonesty, consideration must be taken not only of the facts and circumstances which gave rise to the act committed by the respondent, but also of his state of mind at the time the offense was committed, the time he might have had at his disposal for the purpose of meditating on the consequences of his act, and the degree of reasoning he could have had at that moment.[5]

In the instant case, the OAS would like to impress on us that Bayani is guilty of dishonesty for her deliberate failure to disclose in her PDS the existence of previous administrative case against her as evidenced by OAS Memorandum dated February 9, 1995. The OAS stressed that, while Bayani's claim that admonition and warning are not penalties, she was still found guilty in the said OAS Memorandum. The OAS explained that Bayani was just fortunate that she was not penalized for her infraction, but her conviction then subsists. Thus, we quoted the pertinent areas of the OAS Memorandum dated February 9, 1995 wherein Bayani was admonished and warned, to wit:

While this Office commends the initiative and effort of Mrs. Bayani in facilitating the immediate processing of Mr. Gingo's GSIS Clearance, during which time she prepared the first and second request for it, we could not agree to her view of putting the blame for its delay entirely to GSIS. Logic and common sense would dictate that any document which remains unacted for quite some time needs constant follow-up, through a liaison officer or directly to the agency itself, if only to determine the reason for its delay or uprise the agency

concerned of its inaction, especially in cases where great prejudice will result to an individual. Had Mrs. Bayani been more prudent to check on her request for Mr. Gingo's GSIS Clearance, she would have known, assuming that the allegations of Mrs. Hernaes were true, that the clearance she was requesting for had already been forwarded to their division.

x x x x

In the case of Mrs. Hernaes, we find nothing in the records which would somehow corroborate her allegations that she had distributed the GSIS Clearance of Mr. Gingo to the processor. Both Mrs. Bayani and Mrs. Concepcion, the processors of RTC Region XI claimed that they did not receive any GSIS Clearance of Mr. Gingo. Not even the messengers (Jimmy and Noel), whom Mrs. Hernaes averred she instructed to deliver the said clearance to the processor, could categorically state that she (Mrs. Hernaes) indeed handed to them for distribution the GSIS Clearance of Mr. Gingo. Hence, this office could not help but infer from the foregoing that Mr. Gingo's GSIS Clearance, since it cannot be retrieved anymore, was lost in the hands of Mrs. Hernaes.

Premises considered, this Office finds Mrs. Bayani, Mrs. Concepcion, and Mrs. Hernaes remiss in the performance of their duties and hereby respectfully recommends that they be admonished accordingly with a stern warning that a repetition of the same and similar acts will be dealt with more severely.

x x x x[6]

A perusal of the OAS Memorandum would readily show that indeed Bayani was merely admonished and warned for being remiss in the performance of her duty. Clearly, these are not penalties. If at all, the admonition was meant as a reminder to then respondents to be diligent in the performance of their duties. Moreover, it appeared that while Bayani was included in the investigation and was later on admonished, she was not in fact principally at fault. Thus, considering these circumstances, we surmise that while Bayani made an erroneous judgment in choosing not to disclose her previous infraction, she cannot be blamed for believing that such was irrelevant to: (1) question no. 25 - for this incident had long been resolved and no longer pending; and (2) question no. 27 - for clearly being admonished and warned for being remiss in the performance for her duties do not necessarily equate to conviction as question no. 27 seeks to determine.

Furthermore, as a matter of procedure, the Selection and Promotion Board should have made the proper verification with regard to the entries Bayani made in her PDS, since her answers in question nos. 25 and 27 are easily verifiable, considering that Bayani is an employee of the Court. Moreover, the informations Bayani allegedly deliberately concealed are matters which are supposedly recorded in her employment records. It should not therefore be difficult for the board to perform their duty to assess the qualifications of all applicants for promotions based on their own inquiries; and should not just rely on the informations the applicants reveal.

Likewise, as admitted by the OAS, the subject OAS Memorandum is not an A.M. Resolution/Decision which had undergone deliberation by the Court either as en banc or through its divisions. While it was approved by then Chief Justice Andres R. Narvasa, it appeared that the said OAS Memorandum was meant to be an internal memorandum only issued as a warning/reminder to erring court employees and was not docketed as a regular administrative matter which will also explain why it was not found out earlier.

We do not tolerate the acts of Bayani in failing to disclose in her PDS such informations which could be material and relevant in assessing her eligibility for promotion. We, however, find it harsh to punish Bayani severely for her erroneous judgment. Suffice it to say that while her defense of good faith may be difficult to prove as clearly it is a question of intention, a state of mind, erroneous judgment on the part of Bayani does not, however, necessarily connote the existence of bad faith, malice, or an intention to defraud. Be that as it may, we must emphasized that while erroneous judgment do not equate to bad faith or dishonesty, Bayani, should likewise know that prudence demands that she should disclose such information no matter how irrelevant it may appear to her.

Indeed, in administrative proceedings, only substantial evidence is required to warrant disciplinary sanctions. We define substantial evidence as relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Thus, after much consideration of the facts and circumstances, while the Court has not shied away in imposing the strictest penalty to erring employees, neither can we think and rule unreasonably in determining whether an employee deserves disciplinary sanction.

WHEREFORE, HERMOGENA F. BAYANI, SC Chief Judicial Staff Officer, Leave Division, Office of Administrative Services, Supreme Court, is hereby ADMONISHED and WARNED that a repetition of the same or similar offense will warrant the imposition of a more severe penalty.

SO ORDERED.

Corona, C.J., Carpio, Carpio-Morales, Velasco, Nachura, Leonardo-De Castro, Brion, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.
Serenio, J., with the classification that this is not a penalty.

[1] Rollo, p. 32.

[2] Id. at 21-22.

[3] Id. at 18.

[4] Id. at 1-9.

[5] Office of the Court Administrator v. Flores, A.M. No. P-07-2366 [Formerly OCA-I.P.I. No. 07-2519-P], April 16, 2009, 585 SCRA 82, 87.

[6] Id. at 11-12. (Emphasis supplied.)

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.