

RE: INCIDENT REPORT OF THE SECURITY DIVISION AND ALLEGED VARIOUS INFRACTIONS COMMITTED BY MR. CLOYD D. GARRA, JUDICIAL STAFF EMPLOYEE II, MEDIATION, PLANNING AND RESEARCH DIVISI...

A.M. No. 2019-14-SC. February 10, 2020

Ponente: HERNANDO, J.

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HERNANDO, J.:

In an Information Report[1] (Report) dated May 29, 2019, Eddie B. Macapanas and Archie J. Comilan, Shift-In-Charge and CCTV Operator, respectively, of the Philippine Judicial Academy (PHILJA) Training Center, stated that respondent Mr. Cloyd D. Garra (Garra), Judicial Staff Employee II, Mediation, Planning and Research Division, PHILJA and Staff Driver,[2] violated the PHILJA Training Center House Rules[3] (House Rules) concerning the reception of visitors, viz.:

For security reasons, curfew time for guests billeted at the PTC is at 11:00 p.m. Visitors of guests shall be received only in the lounge located at the Front Office and allowed to stay until 10:00 p.m.[4]

In particular, the Report stated that on May 28, 2019, at approximately 3:47 p.m., Household Attendant II Emilyn Janaban (Janaban) was heading to Room 107 of the Training Center to assist a guest. It was at this time that Janaban observed that a woman proceeded inside a nearby room, particularly, Room 110, and who was closely followed by Garra. The woman was later identified as Maria Edwina V. Sampaga (Sampaga), Mediation Aide of the Philippine Mediation Center (PMC), a participant of a seminar being held in the Training Center,[5] and the solo occupant of Room 110 from May 28 to 31, 2019. Janaban thus reported the incident to Watchman II Zyra Canaan,[6] Security Division personnel, and Gretchen Solis, front desk staff on duty.

CCTV footage[7] revealed that both Sampaga and Garra entered Room 110 at 3:29 p.m. and remained therein until 3:51 p.m., or for approximately 22 minutes, after which both Sampaga and Garra left Room 110 and went their separate ways.

The Report was forwarded to the Office of Administrative Services (OAS) on May 30, 2019[8] for evaluation.

In Memorandums[9] both dated June 10, 2019, Deputy Clerk of Court and Chief Administrative Officer, Atty. Maria Carina M. Cunanan directed Garra and Sampaga[10] to submit their written explanation on their alleged violation of the House Rules concerning the reception of visitors.

In his June 13, 2019 Letter,[11] Garra admitted to the incident as above narrated, but proffered the following reasons and justifications: first, that Sampaga is his common-law wife who has been living with him for more than 14 years; second, that they have a 13-year-old daughter and a 6-year-old son together;[12] and third, being her husband, he merely used the occasion to check up on Sampaga.

Sampaga, on her part, raised in her June 17, 2019 Letter[13] the same admissions and defenses submitted by

Garra and further added that she only permitted Garra to enter Room 110 "as she had a few things to request from him (i.e., 'ibinilin')." [14]

Upon further investigation by the OAS, it was discovered that Garra's personal record (201 file) includes an April 17, 1998 Certificate of Marriage, which indicates that Garra is legally married to a certain Melissa M. Osbual Garra (Osbual). Garra also declared in a Home Development Mutual Fund (HDMF) or Pag-IBIG Member's Data Form, and his Statement of Assets, Liabilities and Net Worth (SALN) forms from 2006 to 2012 that Osbual is his legal spouse. The same information, however, was omitted in Garra's 2007 to 2011 SALNs, including his SALNs beginning 2013. The OAS likewise noted the absence of any record on file that Garra requested for a change of status from married to single, or that any annulment decree was submitted to the OAS. [15]

Considering the foregoing, the OAS, on July 23, 2019, issued a second Memorandum [16] to Garra, which required him to submit his written explanation on why he should not be administratively charged with immorality for maintaining a common-law relationship with Sampaga while being legally married to Osbual, and dishonesty for his failure to declare his marriage to Osbual in a number of his SALNs.

In response to the July 23, 2019 Memorandum, Garra, on August 5, 2019, submitted a Letter [17] to the OAS confirming his marriage with Osbual. Garra, however, submitted that while he and Osbual had two children together, they have not cohabited with each other since 2003. As Osbual allegedly abandoned Garra for another man, Garra was constrained to carry out his responsibilities as both father and mother to their children on top of fulfilling his duties as staff driver. It was in 2005 that Garra met Sampaga who remained his common-law wife and who assisted him in the rearing and care of their children and his children with Osbual. [18]

Garra further alleged in his Letter that his relationship with Sampaga is publicly known to employees of PHILJA and a few employees of this Court. Garra also explained that he did not seek to obtain a decree of annulment of his marriage with Osbual as he opted to devote his small income for payment of living expenses, and tuition and other school fees of all of his children. [19]

By way of defense to the charge of dishonesty, Garra contended that he did not intend to provide false information in his Pag-IBIG Membership form and SALNs for years 2007 to 2011, including his SALNs beginning 2013. Considering his strained relationship with Osbual, and his current relationship with Sampaga, Garra was confounded with his marital status, and by reason of which, Garra simply placed "N/A" on the documents.

Report and Recommendation of the Office of Administrative Services

In its November 6, 2019 Memorandum, [20] the OAS made the following evaluation and recommendation, to wit:

The first category of established facts characterizes the administrative offense of Violation of Reasonable Office Rules and Regulations. Classified as a light offense under Civil Service Rules, it bears the penalty of a reprimand for the first offense.

x x x x

Unfortunately for the respondent, by cultivating a relationship with Ms. Sampaga and starting a family with her while still under the legal bond of marriage with Ms. Osbual, resulted [in] his breaching of the marital vows that he took when he contracted a marriage with the latter. As the law dictates that marriage is intended to be a permanent union unless judicially sundered or declared non-existent, his acts not only fell short of the exacting standards required of employees of the Judiciary, but also constitutes the administrative offense of Immorality (i.e., "Disgraceful and Immoral Conduct"), which is punishable by suspension for six (6) months and one (1) day for the first offense, and dismissal from the service for the second.

As to the charge of Dishonesty for not declaring Ms. Osbual as his legal spouse in his 2007 to 2011 SALN

forms as well as from 2013 onwards x x x.

x x x x

This deliberate misrepresentation or omission of a material fact in an official document amounts to the administrative offense of Dishonesty. The same holds true even assuming that there was no deliberate intent to mislead or defraud the government, such as in the case at bar, where the respondent was aware that by doing so, it could not officially alter his legal status, since dishonesty covers a broad range of conduct. It connotes untrustworthiness and lack of integrity, disposition to lie, cheat, deceive, and betray. Moreover, a SALN is a sworn document.

x x x x

In view of the foregoing, this Office respectfully submits that respondent PHILJA Staff Driver Cloyd D. Garra be found GUILTY of the administrative offenses of Violation of Reasonable Office Rules and Regulations, Immorality (Disgraceful and Immoral Conduct) and Dishonesty and that the latter be SUSPENDED for one (1) year, with a warning that a repetition of the same or similar infraction shall be dealt with more severely.[21] (Citations omitted)

Our Ruling

The Court agrees with the findings and recommendation of the OAS.

Violation of Reasonable Office Rules and Regulations

By his own admission that he in fact entered the premises of Sampaga's quarters in Room 110 instead of meeting her in the lounge as required by the House Rules, Garra is deemed liable for Violation of Reasonable Office Rules and Regulations under Section 46(F)(3), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS). Whether Sampaga is Garra's legal or common-law spouse is of no moment. Needless to state, the rules are clear that all guests, regardless of their relation to the occupants of the PHILJA Training Center, are only allowed to conduct visits in the lounge.

Disgraceful and Immoral Conduct

Garra is also guilty of Disgraceful and Immoral Conduct as defined under Civil Service Commission (CSC) Memorandum Circular (MC) No. 15, Series of 2010, which provides:

Section 1. Definition of Disgraceful and Immoral conduct - Disgraceful and Immoral Conduct refers to an act which violates the basic norm of decency, morality and decorum abhorred and condemned by the society. It refers to conduct which is willful, flagrant or shameless, and which shows a moral indifference to the opinions of the good and respectable members of the community.

The same Circular highlights that "[d]isgraceful and [i]mmoral conduct may be committed in a scandalous or discreet manner, within or out of the workplace." [22]

This Court has held in a number of cases that a man having an illicit relationship with a woman not his wife is within the purview of "disgraceful and immoral conduct" under Civil Service Laws.[23] Here, Garra admitted in his June 13, 2019 and August 5, 2019 Letters that he has cohabited, and continues to cohabit with Sampaga, a woman who is not his wife, with whom he begot two children.

Notably, Garra, in his Letters, admitted that he entered into a relationship with Sampaga in 2005, or two years after Osbual supposedly abandoned him for another man. This is not the place for determining Osbual's infidelity and abandonment of her family. What is material in this case is the fact that without his marriage being first dissolved, Garra lived with another woman not his wife, and with whom he found another family.

It cannot be overstressed that -

Time and again we have stressed adherence to the principle that public office is a public trust. All government officials and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives. This constitutional mandate should always be in the minds of all public servants to guide them in their actions during their entire tenure in the government service. The good of the service and the degree of morality which every official and employee in the public service must observe, if respect and confidence are to be maintained by the Government in the enforcement of the law, demand that no untoward conduct on his part, affecting morality, integrity and efficiency while holding office should be left without proper and commensurate sanction, all attendant circumstances taken into account.[24] (Citations omitted)

Dishonesty

It is undisputed even by Garra that he remains legally married to Osbual. There is no confusion here. In this connection, we agree with the OAS that Garra's deliberate omission of this fact in his SALNs for several years constitutes Dishonesty. "Dishonesty has been defined as the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive, or betray and an intent to violate the truth." [25]

Here, Garra's lack of honesty is evident when, on several occasions, he deliberately placed "N/A" in his SALNs from 2007 to 2011, including his SALNs beginning 2013, despite knowledge that he is still legally married to Osbual. The fact that Garra omitted such information in his SALNs on different and various occasions is a clear manifestation of his propensity to lie and to distort the truth just to suit his personal interest and purpose. This, the Court cannot countenance.

CSC Resolution No. 06-0538 (Rules on the Administrative Offense of Dishonesty) provides for different circumstances when Dishonesty is considered Serious, Less Serious, or Simple.[26]

Section 5 of CSC Resolution No. 06-0538 provides that the presence of any of the following attendant circumstances in the commission of the dishonest act constitutes Simple Dishonesty: "(a) The dishonest act did not cause damage or prejudice to the government; (b) The dishonest act had no direct relation to or does not involve the duties and responsibilities of the respondent; (c) In falsification of any official document, where the information falsified is not related to his/her employment; (d) That the dishonest act did not result in any gain or benefit to the offender; and (e) Other analogous circumstances." [27]

Applying CSC Resolution No. 06-0538, while Garra's misrepresentation or omission of his marital status in his SALNs can be considered as a dishonest act, we agree with the OAS that such act constitutes Simple Dishonesty as the same did not cause damage or prejudice to the government and had no direct relation to or did not involve the duties and responsibilities of Garra as staff driver. The same is true with the misrepresentation Garra committed, where the information omitted is not related to his employment.

The penalty to be imposed upon Garra

According to Section 46 B.3, Rule 10 of the RRACCS, Disgraceful and Immoral Conduct is a grave offense which is punishable by suspension from service for a period of six (6) months and one (1) day to one (1) year for the first offense, and dismissal for the second offense. Section 46 F.3, Rule 10 of the same rules classifies Violation of Reasonable Rules and Regulations as a light offense, which is punishable by reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense.

Under CSC Resolution No. 06-0538, Simple Dishonesty is punishable by suspension of one (1) month and one (1)

day to six (6) months for the first offense; six (6) months and one (1) day to one (1) year suspension for the second offense; and dismissal for the third offense.[28]

In determining the proper penalty to be imposed on Garra, the OAS ruled in this wise:

Under Section 55 of the 2017 Rules on Administrative Cases in the Civil Service, if the respondent is found guilty of two (2) or more different offenses, the imposable penalty should be for the most serious offense, while the rest shall be considered aggravating. Since the penalty for Immorality (Disgraceful and Immoral Conduct) is suspension for six (6) months and one (1) day for the first offense, in consideration of the two (2) aggravating circumstances in the case at bar, we submit that the respondent be suspended for one (1) year x x x.[29] (Emphasis supplied)

It bears noting, however, that Garra's deliberate omissions of his marital status in his SALNs were committed not less than three (3) times, particularly, when he intentionally made such omissions in his 2007 to 2011 SALNs, including his SALNs beginning 2013. These omissions, when so treated separately, could have merited the penalty of dismissal under the RRACCS.

Considering, however, Garra's length of service, and given that his marital status is not a material component of the SALNs, we find that the penalty of suspension for a period of one (1) year is in order. Notably, his outright dismissal from service would be too harsh a penalty in this case.

In view of the foregoing, the Court sustains the recommendation of the OAS that Garra should be suspended for a period of one (1) year.

WHEREFORE, Mr. Cloyd D. Garra, Judicial Staff Employee II, Mediation, Planning and Research Division, Philippine Judicial Academy, and Staff Driver, is found GUILTY of the administrative offenses of Violation of Reasonable Office Rules and Regulations, Disgraceful and Immoral Conduct, and Dishonesty. He is hereby SUSPENDED for a period of one (1) year, with a WARNING that a repetition of the same or similar infraction shall be dealt with more severely.

This Decision takes effect immediately. Let a copy of this Decision be appended to Mr. Cloyd D. Garra's 201 File.

SO ORDERED.

Perlas-Bernabe, Senior Associate Justice, (Chairperson), A. Reyes, Jr., Inting, and Delos Santos, JJ., concurring.

[1] Rollo, p. 38.

[2] Id. at 14.

[3] Id. at 44.

[4] Id.

[5] Id. at 31.

[6] Id. at 36.

[7] Id. at 39-43.

[8] Id. at 33-34.

[9] Id. at 28-29.

[10] Id. at 28 and 30. Through her immediate superior, Jose T. Name, Jr., Officer-In-Charge of the Philippine Mediation Center Office.

[11] Id. at 13.

[12] Id. at 15-19. In support of his defense, Garra attached photocopies of their birth and baptismal certificates, which indicate that both Garra and Sampaga are the children's parents.

[13] Id. at 21.

[14] Id. See also id. at 20.

[15] Id. at 12.

[16] Id.

[17] Id. at 8-9.

[18] Id. at 8.

[19] Id. at 9.

[20] Id. at 1-7; issued by Deputy Clerk of Court and Chief Administrative Officer Atty. Maria Carina M. Cunanan. Since Sampaga is connected with the PMC, and not under the jurisdiction of its Office, the OAS limited its recommendation and imposition of penalty to Garra.

[21] Id. at 3-7.

[22] Section 4, CSC MC No. 15, Series of 2010.

[23] *Acebedo v. Arquero*, 447 Phil. 76, 85 (2003), and *Elape v. Elape*, 574 Phil. 550, 554 (2008).

[24] *Arce v. Arce*, 282 Phil. 26, 38 (1992).

[25] *Alfornon v. Delos Santos*, 789 Phil. 462, 473 (2016).

[26] CSC Resolution No. 06-0538, Section 2. Approved on April 4, 2006.

[27] Id. at Section 5.

[28] Id. at Section 2(c). See also Section 46(E), Rule 10 of the RRACCS.

[29] *Rollo*, p. 7.

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