

DENNIS M. VILLA-IGNACIO, PETITIONER, VS. ELVIRA C. CHUA, RESPONDENT.

Ponente: TIJAM, J.

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TIJAM, J.:

On October 8, 2012, We rendered a Decision[1] on the above entitled case, the dispositive portion of which reads:

"WHEREFORE, the petition is GRANTED. The Decision, dated September 3, 2009, and the Joint Order, dated June 4, 2010, of the Internal Affairs Board of the Office of the Ombudsman are hereby annulled and set aside. In their stead, a new judgment is hereby entered dismissing the charges for Misconduct, Dishonesty, Abuse of Authority & Conduct Prejudicial to the Best Interest of Service against the Petitioner for utter lack of merit.

SO ORDERED."

Respondent received the said Decision on October 23, 2012,[2] and filed a Motion for Reconsideration[3] on November 6, 2012.

In Our November 23, 2012 Resolution,[4] We directed Petitioner to file a Comment on Respondent's Motion for Reconsideration within ten (10) days from notice.

On December 21, 2012, Petitioner filed a Motion for a 10-day Extension of Time or until January 2, 2013 to File Comment.[5] On January 2, 2013, Petitioner again filed another Motion for a 10-day Extension of Time to File Comment[6] from January 2, 2013 or until January 12, 2013. On January 11, 2013, Petitioner, through counsel, filed his Comment/Opposition to Respondent's Motion for Reconsideration.[7]

Respondent, on January 17, 2013, then filed an Opposition to Petitioner's Motion for Extension of Time to File Comment[8] alleging that since said motions were merely signed "for" Petitioner's counsel, Atty. Arno V. Sanidad (Atty. Sanidad), by an unidentified person as he/she did not indicate his/her full name and did not even disclose his/her authority to sign for and/or in behalf of Atty. Sanidad, the motion should be deemed mere scraps of paper and perforce, be denied.

In his reply, Petitioner filed a Comment[9] on the Opposition to Petitioner's Motion for Extension of Time to File Comment dated December 21, 2012 claiming that the Motions were signed for Atty. Arno V. Sanidad by Atty. Nestor M. Leynes III (Atty. Leynes), an authorized member of the bar, with Roll of Attorneys Number 45230. The delegation was valid and the Motions were duly signed by an authorized person in accordance with the Code of Professional Responsibility and jurisprudence, particularly, Republic of the Philippines vs. Kenrick Development Corporation,[10] which provides that a counsel may delegate the signing of a pleading to another lawyer but cannot do so in favor of anyone who is not. Petitioner claimed that the delegation of the signing of the Motions was with the consent of Atty. Arno V. Sanidad.

Respondent's Opposition to Petitioner's Motions for Extension of Time to File Comment and Petitioner's Comment thereto are hereby NOTED and ADMITTED.

Respondent's contentions in her Opposition to Petitioner's Motion for Extension of Time are well-taken. Truly, a pleading that is not validly signed translates to an unsigned pleading, which deserves no attention from the courts. Atty. Leynes, the attorney who apparently signed the pleading, did not indicate that he was signing for Atty. Sanidad. Neither did he show proof of authority to sign the pleading. Thus, Petitioner's Motions for Extension of Time to File Comment should be denied for being mere scraps of paper.

In any case, a litigant should not take for granted that his motion would be approved by the Court; he should always take into account the right of the adverse party to object.[11] Parties and counsel should not assume that courts are bound to grant the time they pray for. A motion that is not acted upon in due time is deemed denied.[12]

In view of all the foregoing, Petitioner's Motions for Extension of Time to File Comment are DENIED and the Comment subsequently filed is hereby Noted without action.

We now proceed to resolve Respondent's Motion for Reconsideration of Our Decision.

Respondent anchors her Motion on the following grounds:

I.

The Honorable Court erred in finding that respondent did not personally hand the amount of P26,660.00 to the Petitioner;

II.

The Honorable Court erred in finding that the amount of P26,660.00 was not intended for the purchase of water pumps for the flood victims but for the construction of deep wells;

III

The Honorable Court erred in ruling that Respondent was aware of the decision of the Petitioner to donate the money to Gawad Kalinga;

IV

The Honorable Court erred in stating that Respondent's silence for more than 3 years is deemed an implied consent.

In sum, the Petitioner, in her Motion for Reconsideration, points out the evidence and legal grounds that sufficiently prove that Petitioner is indeed guilty of simple misconduct.

Indeed, a careful cognizance of the arguments presented by herein Respondent and a vivid scrutiny of the corresponding pieces of evidence brings Us to reconsider Our issued Decision.

First, Respondent asserts that she made the P26,660.00 donation for the purchase of water pumps to help the victims of a then recent typhoon. A second look at the records indeed proves this. Respondent donated the money solely for the purpose of buying water pumps and nothing else as reflected in the receipt issued by Ms. Bernabe on January 20, 2005, upon the instructions of the Petitioner, as well as the frontal portion of the brown envelope that Petitioner handed to Ms. Bernabe, which contained the words, "P26,660.00–Abe's donation for water pump."

Next, not only did Respondent give the donation specifically for the purpose of purchasing water pumps, it is clear that she neither consented to, nor was she made aware of the diversion of the said donation to the Gawad Kalinga Foundation. A second look at the records reveal that through a Manifestation[13] dated September 4, 2008 executed by 28 other officials and employees of the Office of the Special Prosecutor, even they were not informed that the donation they made for the purchase of water pumps were going to be donated to the Gawad Kalinga – contrary to Petitioner's claim that he properly informed the officials and employees of his office about

the matter. As stated in their Manifestation, "it was only recently or about the time when Special Prosecutor Dennis M. Villa-Ignacio revealed to the press that Director Elvira Chua filed a complaint of [sic] estafa against him that we came to know that part of the amount we (Prosecutors) gave to the 2004 Christmas Party for the purchase of water pumps was diverted to Gawad Kalinga project of building shelter (houses)."[14]

Finally, contrary to Petitioner's assertion that Turalba and Uy even volunteered to help in looking for contractors to build the deep wells, Prosecutors John I.C. Turalba and Rabendrath Y. Uy themselves both categorically denied under oath, through their Affidavits,[15] of having been asked by the Petitioner to look for a contractor or having volunteered to look for one. Turalba further stated in his affidavit that, "it is likewise an outright lie when Respondent Villa-Ignacio said that in several ceremonies that followed, he suggested that the monetary contributions be turned over to the Gawad Kalinga Community Development Foundation, Inc., because the truth of the matter is that he never initiated the move to get the consensus of the employees as to where the contribution or donation be given instead." [16]

In Santos vs. Rasalan,[17] it was held that misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules, which must be proved by substantial evidence. Otherwise, the misconduct is simple.

While misconduct generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose, it does not necessarily imply corruption, the element which qualifies misconduct as grave misconduct. Thus, unless there is substantial evidence of corruption, the transgression of an established rule is properly characterized as simple misconduct only.[18]

Here, although it may arguably be said that Petitioner did not have ill motive or corrupt desire for personal gain in appropriating the donations to a different purpose, his act of using the same without the consent of the donees constitutes simple misconduct. We are now convinced that Respondent made her donation for the purpose of purchasing water pumps to help typhoon victims, which amount was used for a different purpose, without her consent or awareness. This conversion of use for another purpose connotes an act of using or disposing of another's money or property as if it was one's own or devoting it to a purpose or use different from that agreed upon.[19] As held by the Internal Affairs Board of the Office of the Ombudsman, Petitioner acted with abuse of authority when he converted the monetary donations of the Respondent and other OSP officers and employees to an entirely different purpose and beneficiaries without their knowledge and consent. Verily, his actuation constitutes simple misconduct, which is punishable by law.[20]

In the case of Lu vs. YM, Sr.,[21] citing Limketkai Sons Milling, Inc. vs. Court of Appeals, the Court conceded that it is not infallible. Should any error of judgment be perceived, it does not blindly adhere to such error, and the parties adversely affected thereby are not precluded from seeking relief therefrom, by way of a motion for reconsideration. In this jurisdiction, rectification of an error, more than anything else, is of paramount importance.

WHEREFORE, the Motion for Reconsideration is GRANTED. The Petition for Certiorari is hereby DISMISSED.

SO ORDERED.

Barza, and Cruz, JJ., concur.

[1] Rollo, pp. 744-764.

[2] Rollo, p. 743, dorsal side.

- [3] Rollo, pp. 772-786.
- [4] Rollo, p. 828.
- [5] Rollo, pp. 829-831.
- [6] Rollo, pp. 834-836.
- [7] Rollo, pp. 839-858.
- [8] Rollo, pp. 861-863.
- [9] Attached to the Rollo.
- [10] G.R. No. 149576, August 8, 2006.
- [11] Cumplido vs. Mendoza, G.R. No. L-20265, June 30, 1964.
- [12] Sarmiento vs. Zaratan, G.R. No. 167471, February 5, 2007.
- [13] Rollo, pp. 817-819.
- [14] Rollo, p. 817.
- [15] Rollo, pp. 820-825.
- [16] Rollo, p. 821.
- [17] G.R. No. 155749, February 8, 2007.
- [18] Imperial vs. Government Service Insurance System, G.R. No. 191224, October 4, 2011.
- [19] Lim vs. Court of Appeals, G.R. No. 102784, April 7, 1997.
- [20] Rollo, p. 29.
- [21] G.R. No. 153690, February 15, 2011.

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