

HERMINIO VILLAMAYOR, COMPLAINANT, VS. TOMAS VERA CRUZ, RESPONDENT.

A.M. No. P-93-958. October 14, 1993

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PER CURIAM:

This is an administrative case against Tomas Vera Cruz, Jr., Process Server of the Regional Trial Court, Branch 25, Biñan, Laguna. The case stemmed from a letter-complaint dated September 14, 1990 of Herminio Villamayor, Executive Vice President, Philippine Phoenix Surety & Insurance Co., Inc., to the National Bureau of Investigation requesting investigation of what he believes to be a falsification of public document.

Hence, the Office of the Court Administrator directed the Hon. Judge Rodrigo V. Cosico, Executive Judge, Biñan, Laguna, to conduct the necessary investigation.

Acting thereon, Judge Cosico required Tomas Vera Cruz, Jr. to answer the complaint within 24 hours from notice. Thereafter, an investigation of the case was conducted.

In his Resolution dated June 23, 1993, Judge Cosico made a report of his findings, to wit:

In September 1983, the Philippine Phoenix Surety and Insurance, Inc. posted a bailbond for the provisional liberty of Frederick Doromal, who is accused of Homicide in Crim. Case No. 1966 before the Regional Trial Court of Laguna, Branch 25, Biñan, Laguna. As the accused jumped bail and the Surety Company was unable to produce the body of the accused, the Court ordered the forfeiture of the bond and the Surety Company was ordered to pay the amount of P6,000.00.

In compliance with the said forfeiture order, the Surety Company, thru its employee, Mr. Augusto C. Cabardo, paid the amount of P6,000.00 per O.R. No. 1700900 on October 17, 1988 and then moved for the cancellation of the bond and its release from further liabilities thereunder.

The Court denied the motion on the ground that it was found out that O.R. No. 1700900 was stolen and the signature of the issuer was forged.

The Trial Prosecutor who was ordered by the Court to investigate the matter, found out that O.R. No. 1700900 is a genuine official form but was stolen and ripped off from the booklet wherein it was contained. The three (3) court employees, namely, Joselito Paras, Gertrudes Sison, and Felix Marcellana, who were the ones authorized to keep and issue accountable forms in the Office of the Clerk of Court, Regional Trial Court, Biñan, Laguna, all denied having issued the questioned official receipt contending that the handwriting entries as well as the signature therein are not theirs.

The National Bureau of Investigation (NBI) which conducted an investigation took the statements of Mr. Joselito Paras and Mesdames Diana Asino-Ramos and Emelina S. Almendral-Santos. The NBI also took the statements of Augusto C. Cabardo, principal witness for the complainant, and Tomas Vera Cruz, Jr., respondent in this case.

Mr. Augusto C. Cabardo testified that he was the Liaison Officer of the Philippine Phoenix Surety and Insurance, Inc. and was tasked with the filing and payment of bailbonds; that when he was verifying with RTC

Branch 25 the writ of execution relative to the bailbond of Frederick Doromal, an employee referred him to respondent Totoy Vera Cruz; that he returned to the court to file a Motion for Nominal Forfeiture of Bond and again on September 30, 1988 to pay the amount of P6,000.00 as ordered by the court; that on October 17, 1988, Mr. Cabardo paid Totoy Vera Cruz, Jr. the amount of P6,000.00, for which the latter issued O.R. No. 1700900 M; that Totoy Vera Cruz filled up the receipt and handed Cabardo the receipt outside the room of said respondent; and that Atty. Banlaque of the Philippine Phoenix Surety and Insurance, Inc. brought him before Judge Minita Chico-Nazario and in her presence he pointed to Totoy Vera Cruz as the person to whom he paid the amount of P6,000.00 and who issued to him the questioned official receipt.

Denying the charge against him, respondent Tomas "Totoy" Vera Cruz, Jr., y Legasto averred that he never met Augusto C. Cabardo and did not receive the amount of P6,000.00 from the latter; that he would not sacrifice his honor and dignity considering his length of service in the government, which is 31 years, only for the amount of P6,000.00; and that what motivated the complainant in filing the complaint is only to harass him.

Upon being informed about the administrative charge against him, respondent Tomas "Totoy" Vera Cruz, Jr. filed an answer, the material allegations of which are stated above. His answer is a substantial reiteration of the counter-affidavit which he filed before the Ombudsman. He stated that he would not present any witness or any further evidence in his behalf and would just submit the case for resolution of the Executive Judge.

The pivotal issue to be resolved is, under the facts and law of the case, what offense, if any, was committed, and whether respondent may be held liable therefor.

There is no question that an act of dishonesty was committed in the instant case when the amount of P6,000.00 was received by respondent Tomas Vera Cruz, Jr. from Mr. August C. Cabardo, Liaison Officer of the Philippine Phoenix Surety and Insurance, Inc., for which respondent issued a forged receipt, although he was not legally authorized to do so.

Mr. Joselito Paras testified that respondent Tomas Vera Cruz, Jr. binds court records and also deals with bonding matters (Annex "L"). For her part, Mrs. Emelina S. Almendral-Santos declared that respondent Tomas Vera Cruz, Jr. attended to the representative of Philippine Phoenix Surety and Insurance, Inc. when the latter was working for the bailbond of Frederick Doromal, for which bailbond the questioned official receipt was issued. It is significant to note that respondent did not deny that he was pinpointed by August Cabardo in the presence of then Presiding Judge Minita Chico-Nazario.

Based on the foregoing facts, Judge Cosico concluded: (1) that there is preponderance of evidence clearly showing that respondent Tomas Vera Cruz, Jr. committed an act of dishonesty when he received the amount of P6,000.00 from August Cabardo, for which he issued a forged receipt, knowing that he was not legally authorized to do so, and that the Philippine Phoenix Surety and Insurance, Inc. will be prejudiced thereby; (2) that he gives credence to the testimony of such disinterested witnesses as Augusto Cabardo, Joselito Paras, Diana Asifio-Ramos and Emelina Almendral-Santos; (3) that weighing contradictory and opposing statements, it has been held that greater credence must be given to the positive testimonies of the prosecution witnesses than to the denial of the defendant (*People vs. Olivar*, G.R. No. 101577, November 13, 1992); (4) that as between the self-serving and uncorroborated testimony of the respondent and the positive and corroborated testimony of Augusto Cabardo, Joselito Paras, Diana Asifio-Ramos and Emelina S. Almendral-Santos, the testimony of the latter should prevail; and (5) that in accordance with Memorandum Circular No. 30, s. 1989 of the Civil Service Commission prescribing guidelines in the application of penalties in administrative cases in relation to Pres. Decree No. 807, dishonesty is classified as a grave offense with an imposable penalty of dismissal for the first offense. The investigating Judge thereupon recommended the penalty of forced resignation in lieu of dismissal.

The Office of the Court Administrator evaluated the foregoing findings and recommendation and in its

Memorandum dated September 2, 1993, said office recommends the dismissal from the service of Tomas Vera Cruz, Jr. with forfeiture of all benefits.

The recommendation of the Office of the Court Administrator is well-taken and as aptly stated by the said office:

We do not hesitate to confirm that respondent Vera Cruz committed grave misconduct in office, dishonesty, and conduct prejudicial to the best interest of the service when he received the amount of P6,000.00 for the cancellation of a bailbond and issued a stolen official receipt for the same, and forged the signature of the authorized issuer under the pretext that he was the court employee duly authorized of processing bailbonds. For that he alone must suffer the consequences of his act.

The Honorable Court had said before, and reiterates it again, as it has done in other cases, 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. His conduct at all times, must not only be characterized by propriety and decorum but above else must be above suspicion (Jerios, Jr. vs. Reblando, Sr., 71 SCRA 126). Indeed, every employee of the judiciary should be an example of integrity, uprightness and honesty (Ablanida vs. Intia, Administrative Matter No. R-770-P, May 17, 1988).

Respondent does not deserve to stay any longer in the judiciary.

ACCORDINGLY, Tomas Vera Cruz, Jr. is hereby DISMISSED from service for grave misconduct, dishonesty, and conduct prejudicial to the best interests of the service, with forfeiture of all retirement benefits, and with prejudice to re-employment in any branch of the government, including government-owned and controlled corporations.

Let a copy of this Decision be forwarded to the Regional Trial Court, Branch 25, Biñan, Laguna and the Civil Service Commission.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.

Padilla and Griño-Aquino, JJ., on leave.

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