

**EXECUTIVE JUDGE MELANIO C. ROJAS, JR., REGIONAL TRIAL COURT, BRANCH 25, TAGUDIN, ILOCOS SUR, COMPLAINANT, VS. ANA MARIVIC L. MINA, CLERK III, REGIONAL TRIAL COURT, BRANCH 25, TA...**

*A.M. No. P-10-2867 [Formerly A.M. OCA IPI No. 09-3255-P]. June 19, 2012*

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**PER CURIAM:**

At bench is an administrative case that involves respondent Ana Marivic Mina (respondent), previously employed as Clerk III of the Regional Trial Court (RTC), Branch 25, Tagudin, Ilocos Sur. The Office of the Court Administrator (OCA) found her administratively liable for Gross Misconduct and Dishonesty. Specifically, she was found to have stolen checks covering the Special Allowance for Judges and Justices (SAJJ) payable to complainant Executive Judge Melanio C. Rojas, Jr. (Judge Rojas), and encashed them without his knowledge and authority. We affirm the findings of the OCA.

Judge Rojas brought respondent's unlawful acts to the attention of the OCA in a letter dated 27 July 2009. He requested the withholding of benefits due respondent, because she had reportedly been stealing SAJJ checks belonging to him and other trial court judges and encashing them without their knowledge and authority.[1]

Judge Rojas claimed that the SAJJ checks payable to RTC Judges Policarpio Martinez (presiding judge of RTC Branch 71, Candon City) and Gabino Balbin, Jr. (presiding judge of RTC Branch 23, Candon City) were mistakenly placed in a single envelope, which was erroneously sent to the RTC Tagudin, Ilocos Sur. Respondent received the said envelope and encashed the checks without receiving any authority to do so from any of the trial court judges. Before any action could be filed against her, she settled the matter by paying off both trial court judges.

Upon further investigation, it was discovered that respondent had been getting mail matters at the Post Office of Tagudin, Ilocos Sur, more particularly SAJJ checks payable to Judge Rojas. As testified to by Marivic Daus (Daus) and Cornelia Corpuz (Corpuz), two employees of the Tagudin Women's Cooperative, respondent had encashed a ₱30,000 check payable to Judge Rojas without the latter's consent and authority. Thereafter, on 22 June 2009, respondent tendered her resignation, which, according to Judge Rojas, was made with the intent to preempt the filing of an appropriate action against her.[2]

Acting on the matter, the OCA directed respondent to file her comment. She countered that, previously, as a settlement of all her obligations to Judge Rojas, she executed in his favor a "Deed of Quitclaim and Waiver of Rights" authorizing him to claim all the benefits due her from this Court upon her resignation. She clarified, however, that subsequently, they verbally agreed in a meeting that she would settle her obligations within ninety (90) days; and, in return, Judge Rojas would issue the corresponding clearance for her to claim her benefits instead. She further claimed that she was doing her best to settle her obligations to him.

As earlier stated, the OCA found respondent liable for gross misconduct and dishonesty. It ruled that she virtually admitted liability when she claimed that she was in the process of settling her obligations to Judge Rojas. It

further ruled that her resignation, as well as the efforts of the parties to settle the matter amicably, did not absolve her of any administrative liability. Thus, it recommended the following:

It is therefore respectfully recommended for the consideration of the Honorable Court that:

(1)

the instant administrative matter be RE-DOCKETED as a regular administrative complaint against Ana Marivic L. Mina, Clerk III, Regional Trial Court, Branch 25, Ilocos Sur;

(2)

respondent Mina be FOUND GUILTY OF GROSS MISCONDUCT AND DISHONESTY; and

(3)

considering respondent Mina had already resigned from the service, that she instead be FINED in the amount of Forty Thousand Pesos (P40,000.00), with forfeiture of all the benefits she is entitled to, except accrued leave credits, and DISQUALIFIED from reinstatement or appointment to any public office including government-owned or controlled corporations.

### The Court's Ruling

The Court agrees with the OCA's findings, which were entirely substantiated by the record. We find respondent guilty of gross misconduct and dishonesty for stealing and encashing SAJJ checks payable to trial court judges without their knowledge and authority.

- Respondent is guilty of gross misconduct and dishonesty for stealing and encashing checks without authority.

The Code of Conduct for Court Personnel stresses that employees of the judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. No other office in the government service exacts a greater demand for moral righteousness and uprightness from an employee than in the Judiciary.[3] Thus, the failure of judicial employees to live up to their avowed duty constitutes a transgression of the trust reposed in them as court officers and inevitably leads to the exercise of disciplinary authority.[4]

By these standards, respondent was found wanting, as she never denied the allegations that she had stolen and encashed the ₱30,000 check payable to Judge Rojas. She did not even refute the allegations of Dauz and Corpuz that she misrepresented to both of them that she had authority to encash the check. Worse, neither did she ever deny the allegations pertaining to her previous acts of stealing from and paying off her obligations to other trial court judges. Thus, we conclude that she has virtually admitted her wrongdoing.

The only defense respondent has set forth is that she has been trying to settle her obligation to Judge Rojas. However, this defense cannot exculpate her from liability. The fact that she is willing to pay does not free her from the consequences of her wrongdoing.[5] This Court in *Chan v. Olegario*[6] found a court employee administratively liable for "willful failure to pay just debt" despite the court employee's settlement of the unpaid obligation during the pendency of the case. In the same vein, this Court in *Office of the Court Administrator v. Elumbaring*[7] has emphatically ruled that not even the full payment of the collection shortages will exempt the accountable officer from administrative liability.

Following these precedents, it is clear that whether or not respondent has fully settled her obligation to Judge

Rojas, and to the other trial court judges for that matter, will not exonerate her from any administrative wrongdoing. This Court in *Villaseñor v. De Leon*[8] has emphasized that full payment of an obligation does not discharge the administrative liability, because disciplinary actions involve not purely private matters, but acts unbecoming of a public employee:

As we have observed in *Perez v. Hilario*, the discharge of a court employee's debt does not render the administrative case moot. For, the proceedings are not directed at respondent's private life but at her actions unbecoming a public employee. Disciplinary actions of this nature do not involve purely private or personal matters. They cannot be made to depend upon the will of the parties nor are we bound by their unilateral act in a matter that involves the Court's constitutional power to discipline its personnel. Otherwise, this power may be put to naught or otherwise undermine the trust character of a public office and the dignity of this Court as a disciplining authority. (Emphasis supplied.)

In view of the foregoing, we rule that respondent's admitted acts of pocketing checks and later encashing them for her benefit constitute grave misconduct.[9] We have defined grave misconduct as follows:

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer; and the misconduct is grave if it involves any of the additional elements of corruption, such as willful intent to violate the law or to disregard established rules, which must be established by substantial evidence.[10]

Furthermore, stealing the checks and encashing them are considered acts of gross dishonesty.[11] Dishonesty is defined as a disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.[12]

We have often ruled that the image of a court of justice is mirrored in the conduct, official or otherwise, of the personnel who work therein. Court employees are enjoined to adhere to the exacting standards of morality and decency in their professional and private conduct in order to preserve the good name and integrity of the court of justice.[13]

- Respondent's resignation does not affect her administrative liability for gross misconduct and dishonesty.

Both gross misconduct and dishonesty are grave offenses that are punishable by dismissal even for the first offense.[14] Penalties include forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from reemployment in government service.[15] However, as will be further discussed below, the penalty of dismissal may no longer be imposed.

Records show that respondent has already effectively resigned from her position,[16] and allegations that she did so to avoid administrative liability have been uncontroverted. The mere expedient of resigning from the service, however, will not extricate a court employee from the consequences of his or her acts.[17] We have often ruled that resignation should not be used either as an escape or as an easy way out to evade an administrative liability or an administrative sanction.[18] Thus, we hold respondent administratively liable for gross misconduct and dishonesty.

Her resignation, however, would affect the penalties that this Court may impose. The penalty of dismissal arising from the offense was rendered moot by virtue of her resignation.[19] Thus, we find the recommendation of the OCA to be appropriate under the circumstances and impose upon respondent the penalty of a fine in the amount of ₱40,000 with forfeiture of all benefits due her, except accrued leave credits, if any. The ₱40,000 fine shall be

deducted from any such accrued leave credits, with respondent to be personally held liable for any deficiency that is directly payable to this Court. She is further declared disqualified from any future government service.

We emphasize that all court employees, being public servants in an office dispensing justice, must always act with a high degree of professionalism and responsibility. Their conduct must not only be characterized by propriety and decorum, but must also be in accordance with the law and court regulations. To maintain the people's respect and faith in the judiciary, court employees should be models of uprightness, fairness and honesty. They should avoid any act or conduct that would diminish public trust and confidence in the courts.[20]

WHEREFORE, respondent Ara Marivic L. Mina is hereby found GUILTY of GRAVE MISCONDUCT AND DISHONESTY. In lieu of DISMISSAL, the penalty which her offenses carry, but which can no longer be effectively imposed because of her resignation, respondent Mina is hereby ordered to pay a FINE in the amount of P40,000, with FORFEITURE of whatever benefits still due her from the government, except accrued leave credits if she has earned any; and is likewise declared DISQUALIFIED from employment in any branch or instrumentality of the government, including government-owned or controlled corporations.

**SO ORDERED.**

Carpio, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Sereno, Reyes, and Perlas-Bernabe, JJ., concur.

Velasco, Jr., and Perez, JJ., no part.

Mendoza, J., on leave.

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[1] OCA I.P.I No. 09-3255-P. Re: Executive Judge Melanio C. Rojas, Jr., Regional Trial Court, Branch 25, Tagudin, Ilocos Sur v. Ana Marivic L. Mina, Clerk III, Regional Trial Court, Branch 25, Tagudin, Ilocos Sur.

[2] Respondent's resignation was later accepted under the Notice of Acceptance of Resignation dated 08 January 2010 signed by then Officer-in-Charge, Deputy Court Administrator Nimfa C. Vilches.

[3] Lauria-Liberato v. Lelina, A.M. No. P-09-2703, 05 September 2011.

[4] Office of the Court Administrator v. Pacheco, A.M. No. P-02-1625, 04 August 2010, 626 SCRA 686.

[5] Id.

[6] A.M. No. P-09-2714, 06 December 2010, 636 SCRA 361.

[7] A.M. No. P-10-2765, 13 September 2011.

[8] 447 Phil. 457 (2003).

[9] Velasco v. Pascual, 315 Phil. 446 (1995).

[10] Re: Complaint of Mrs. Corazon S. Salvador against Spouses Noel and Amelia Serafico, A.M. No. 2008-20-SC, 15 March 2010, 615 SCRA 186, 203-204.

[11] Filoteo v. Calago, A.M. No. P-04-1815, 18 October 2007, 536 SCRA 507.

[12] Japson v. Civil Service Commission, G.R. No. 189479, 12 April 2011, 648 SCRA 532.

[13] Supra note 3.

[14] Uniform Rules on Administrative Cases in the Civil Service, Sec. 52(A) 1 & 3; Aguilar v. Valino, A.M. No.

P-07-2392, 25 February 2009, 580 SCRA 242.

[15] Retired Employee v. Manubag, A.M. No. P-10-2833, 14 December 2010, 638 SCRA 86.

[16] Supra note 2.

[17] Igoy v. Soriano, A.M. No. 2001-9-SC, 11 October 2011; Office of the Court Administrator v. Juan, 478 Phil. 823 (2004).

[18] Banaag v. Espeleta, A.M. No. P-11-3011, 29 November 2011.

[19] See Babante-Caples v. Caples, A.M. No. HOJ-10-03, 15 November 2010, 634 SCRA 498; Noel-Bertulfo v. Nuñez, A.M. No. P-10-2758, 02 February 2010, 611 SCRA 270.

[20] Tan v. Qutorio, A.M. No. P-11-2919, 30 May 2011, 649 SCRA 12.

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