

**IN RE: AFFIDAVIT OF FRANKIE N. CALABINES, A MEMBER OF THE
CO-TERMINUS STAFF OF JUSTICE JOSEFINA GUEVARRA-SALONGA,
RELATIVE TO SOME ANOMALIES RELATED TO CA-G.R CV NO. 73287,
“CAN...**

AM No. 04-5-20-SC. November 21, 2007

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PER CURIAM:

In a Decision promulgated on March 14, 2007, the Court found the respondents in this case guilty of grave misconduct for the anomalies committed in connection with the case of Candy Maker, Inc. v. Republic of the Philippines, docketed as CA-G.R. CV No. 73287. The dispositive portion of the Decision states:

WHEREFORE, respondents Feliciano S. Calinga, Evelyn L. Caguitla, Luis N. Gnilo and Atty. Edwin Michael P. Musico are found GUILTY OF GRAVE MISCONDUCT and are meted the penalty of DISMISSAL, pursuant to Section 22 (a) and (c), Rule XIV of the Omnibus Rules implementing Book V of Executive Order 292 and Other Pertinent Civil Service Laws, as amended by Section 52 (A), paragraphs 1 and 3 of CSC Memorandum Circular No. 19, Series of 1999, with disqualification from employment in any government office and/or forfeiture of benefits, except for accrued leaves. The charges of DISHONESTY and GRAVE MISCONDUCT against complainant-respondent Frankie N. Calabines are DISMISSED for lack of sufficient evidence. No costs.

SO ORDERED.

On October 4, 2007, the Court received from respondent Evelyn L. Caguitla a motion for clarification of the dispositive portion of the Decision. She stated that the penalty imposed upon the respondents is dismissal from the service with disqualification from employment in any government agency and/or forfeiture of benefits, except accrued leaves. She questions whether the penalty is in the alternative, that is, respondents may either be dismissed from the service with disqualification from employment in any government agency or their benefits will be forfeited, except accrued leaves. If the penalty is in the alternative, she prays that all benefits due her for 23 years of government service be ordered released to her since she has already been dismissed from the service.

The Court holds that the penalty is not in the alternative. In its Decision, the Court sustained the findings in the Report of Investigating Justice Martin S. Villarama, Jr. and approved his recommendation, thus:

1)

That respondents Feliciano S. Calinga, Evelyn L. Caguitla, Luis N. Gnilo and Atty. Edwin P. Musico be held liable for GRAVE MISCONDUCT and be meted the corresponding penalty of DISMISSAL, pursuant to Section 22 (a) and (c), Rule XIV of the Omnibus Rules Implementing Book V of Executive Order 292 and Other Pertinent Civil Service Laws, as amended by Section 52 (A), paragraphs 1 and 3 of CSC Memorandum Circular No. 19, Series of 1999, with disqualification from employment in any government office and with forfeiture of benefits, except for accrued leaves; and

2)

That the charges of DISHONESTY and GRAVE MISCONDUCT against complainant-respondent Frankie N. Calabines be DISMISSED for lack of sufficient evidence.

The dispositive portion of the Decision is therefore corrected, thus:

WHEREFORE, respondents Feliciano S. Calinga, Evelyn L. Caguitla, Luis N. Gnilo and Atty. Edwin Michael P. Musico are found GUILTY OF GRAVE MISCONDUCT and are meted the penalty of DISMISSAL, pursuant to Section 22 (a) and (c), Rule XIV of the Omnibus Rules implementing Book V of Executive Order 292 and Other Pertinent Civil Service Laws, as amended by Section 52 (A), paragraphs 1 and 3 of CSC Memorandum Circular No. 19, Series of 1999, with disqualification from employment in any government office and forfeiture of benefits, except for accrued leaves. The charges of DISHONESTY and GRAVE MISCONDUCT against complainant-respondent Frankie N. Calabines are DISMISSED for lack of sufficient evidence. No costs.

SO ORDERED.

IN VIEW OF THE FOREGOING, it is hereby clarified that the penalty of dismissal imposed on respondents Feliciano S. Calinga, Evelyn L. Caguitla, Luis N. Gnilo and Atty. Edwin Michael P. Musico carries with it disqualification from employment in any government office and forfeiture of benefits, except for accrued leaves.

No costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, and Reyes, JJ., concur.
Sandoval-Gutierrez, J., on official leave.

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