

**LYDIA L. FAELDEN, COMPLAINANT, VS. CARINA DIVINAGRACIA LAGURA, UTILITY AIDE, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, TAGBILARAN CITY, RESPONDENT.**

*A.M. No. P-05-1977 (Formerly OCA I.P.I. No. 03-1761-P). October 09, 2007*

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**PER CURIAM:**

By Letter-complaint dated August 26, 2003,[1] Lydia L. Faelden (complainant), Court Stenographer III, charged Carina Divinagracia Lagura (respondent), Utility Aide at the Office of the Clerk of Court, Regional Trial Court, Tagbilaran City, with grave misconduct and gross dishonesty for stealing and encashing her check.

Culled from the rollo are the following undisputed facts:

The Supreme Court Health and Welfare Plan issued in complainant's name Land Bank of the Philippines Check No. 508278 dated July 19, 2003 in the amount of P1,223.25 representing reimbursement for medical expenses incurred during her recent illness.

It surfaced that respondent stole and negotiated the check by procuring on August 14, 2003 an Authorization to Purchase (ATP)[2] at the Alturas Supermarket Corporation in Tagbilaran City with which she used to buy groceries.

Respondent later attempted to retrieve the check from the Alturas Supermarket Corporation to which she suggested that she would pay its cash equivalent.[3]

The check showed that complainant's signature thereon was different from her customary signature.

Thus spawned the filing of the administrative case at bar. In a related move, complainant filed a case against respondent before the Office of the Prosecutor, Tagbilaran City.

The Office of the Court Administrator (OCA) repeatedly directed respondent to file her Comment[4] on the complaint but nothing was heard from her.

In its January 26, 2005 Report,[5] the OCA came up with the following:

EVALUATION: Respondent was given ample opportunity to be heard but she ignored it. She disobeyed the repeated directives of the Court Administrator requiring her to file her comment to explain her side. By her failure to comment, she is deemed to admit the charge[s] against her. It is an admission by silence which may be given in evidence against her pursuant to Section 32 of Rule 130 of the Revised Rules of Court.

As charged, respondent committed the administrative offenses of grave misconduct and gross dishonesty each of which is a serious offense which carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits except accrued leave credits and perpetual disqualification from employment from the government service. (Civil Service Rules Sections 52 and 58, Rule IV[;] Judge Veronica A. Dondiego vs. Petrono D. Cuevas, Jr., etc., A.M. No. P-03-1681, February 28, 2003, per curiam).[6] (Emphasis and italics in the original, underscoring supplied)

In its report, the OCA invites the attention of the Court to Judge Layosa v. Salamanca[7] where the therein respondent stole and encashed the check of Judge Layosa and despite several opportunities for her to comment on the judge's complaint, she failed to do so. Held the Court:

By stealing and encashing the complainant's check, she blatantly degraded the judiciary and diminished the respect and regard of the people for the court and its personnel. Every employee of the judiciary should be an example of integrity, morality and honesty. Like any public servant, she must exhibit the highest sense of trustworthiness and rectitude not only in the performance of her official duties but also in her personal and private dealings with other people, to preserve the court's good name and standing as a true temple of justice. It cannot be overstressed that the image of a court of justice is mirrored in the conduct, official and otherwise, of the personnel who work there, from the judge to the lowest employee. In Court Administrator vs. Sevillo, we lamentably portrayed respondent therein as a common thief for stealing mail matters, just like respondent herein.[8] (*Italics in the original; emphasis supplied*)

The OCA thus recommended the dismissal of respondent from the government service.

By Resolution of February 23, 2005,[9] this Court required the parties to manifest whether they are willing to submit the case on the basis of the pleadings and records already filed and submitted. Both parties failed to comply with the resolution. Thus, by Resolution of February 1, 2006,[10] this Court directed both parties to show cause why they should not be disciplinarily dealt with for failure to comply with the Resolution of February 25, 2005.

Complainant filed her Manifestation/Explanation[11] acknowledging that she received all the notices issued by this Court, but proffering that since the criminal case before the City Prosecutor was dismissed in view of her desistance, she had the "honest belief that this Administrative Case filed was automatically cancelled." She manifested that "for humanitarian reasons" she had no more intention of pursuing the present case.

In complainant's Affidavit of Desistance before the City Prosecutor,[12] complainant stated that respondent admitted her unlawful taking of the check and apologized for the inconvenience, and in exchange for her (complainant's) withdrawal of the criminal complaint, respondent promised to voluntarily tender her "irrevocable resignation from government service effective October 31, 2003."

This Court finds the recommendation of the OCA well-taken.

The desistance of complainant from pursuing the present administrative case does not divest the Court of its disciplinary authority over court personnel.[13] *Dionisio v. Gilera* explains:

. . . The overriding need to maintain the faith and confidence of the people in the judiciary demands that erring personnel be sanctioned, notwithstanding the withdrawal of the [c]omplaints. Indeed, these proceedings do not depend on the whims and caprice of the concerned employees, for the aggrieved party is the court system. The issue in administrative cases is not whether the complainant has a cause of action against the respondent, but whether the employees have breached the norms and standards of the judiciary. Clearly, this Court has the duty to root out misconduct among its employees, regardless of the parties' desistance.[14]

The records show that indeed respondent tendered her resignation effective October 31, 2003. The resignation has not been acted upon, however, presumably because of the pendency of two administrative cases against her including the present one. Respondent has thus remained an employee of the judiciary.

Apropos is Re: (1) Lost Checks Issued to the Late Roderick Roy P. Melliza, Former Clerk II, MCTC, Zaragga, Iloilo; and (2) Dropping from the Rolls of Ms. Esther T. Andres[15] in which this Court declared:

. . . Respondent Andres is still an employee of this Court in spite of the resignation letter earlier filed, as

verification from this Office revealed that her resignation has not been accepted nor acted upon. While indeed Andres, under the Civil Service Rules, may be allowed to resign pending decision of her case, it is without prejudice to the continuation of the proceedings until finally terminated. To constitute a complete and operative resignation from public office, there must be: (a) an intention to relinquish a part of the term; (b) an act of relinquishment; and (c) an acceptance by the proper authority. The effectivity of her resignation commences from the time this Office approves the same after she is cleared from all her obligations for purposes of determining her entitlement to her separation benefits. Records [are] bereft of any indication that her resignation was accepted.[16] (Emphasis and underscoring supplied)

The resignation of a respondent in an administrative case does not thus abate the continuation of the proceedings thereon. It is not a way out for a court personnel who is facing administrative sanction[17] to evade administrative liability.

Respondent being then guilty of gross dishonesty and grave misconduct, her dismissal from the service is warranted, following Section 52(A) of Resolution No. 99136[18] dated August 31, 1999 of the Civil Service Commission.

WHEREFORE, this Court finds respondent Carina Divinagracia Lagura, Utility Aide of the Regional Trial Court, Office of the Clerk of Court, Tagbilaran City, GUILTY of grave misconduct and gross dishonesty. She is DISMISSED from the service effective immediately, with forfeiture of all retirement benefits, except accrued leave credits, with prejudice to her reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

#### **SO ORDERED.**

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Garcia, Nachura, and Reyes, JJ., concur.  
Velasco, Jr., J., No part. Due to prior action in OCA.

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[1] Rollo, p. 1.

[2] Annex "C," id. at 6.

[3] In the afternoon of August 15, 2003, respondent requested for the return of the duplicate copy of the ATP as well as the check in the name of Lydia Faelden. The employees of Alturas Supermarket Corporation denied the request, however, because the check was already included among the checks due for deposit. The following day, August 16, 2003, a woman who introduced herself as Mrs. Faelden requested the return of the check. The corporation denied the request too as the check was already deposited with the bank.

[4] Rollo, pp. 15-17.

[5] Id. at 18-20.

[6] Id. at 19.

[7] 455 Phil. 28 (2003).

[8] Id. at 37-38 (2003). Vide Re: (1) Lost Checks Issued to the Late Roderick Roy P. Melliza, Former Clerk II, MCTC, Zaragga, Iloilo; and (2) Dropping from the Rolls of Ms. Esther T. Andres, A.M. No. 2005-26-SC, November 22, 2006, 507 SCRA 478; Re: Loss of Extraordinary Allowance of Judge Jovellanos, 441 Phil. 261(2002).

[9] Rollo, p. 21.

[10] Id. at 25.

[11] Id. at 26-27.

[12] Id. at 35.

[13] Bajar v. Baterisna, A.M. No. P-06-2151, August 28, 2006, 499 SCRA 629, 638.

[14] 371 Phil. 214, 223 (1999).

[15] Supra note 13.

[16] Id. at 493-494.

[17] Id. at 493. Vide Office of the Court Administrator v. Juan, A.M. No. P-03-1726, July 22, 2004, 434 SCRA 654, 658.

[18] Uniform Rules on Administrative Cases in the Civil Service.

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