MARICIS A. ALENIO, EDISON F. AMPER, NESTOR M. APPARI, LILY DELA CRUZ, AND PERIGRINO M. MACROHON, COMPLAINANTS, VS. ELADIA T. CUNTING, CLERK OF COURT IV, AND MARIE GAY B. NARANJO...

A.M. NO. P-05-1975. July 26, 2007

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PER CURIAM:

This administrative case against Eladia T. Cunting, Clerk of Court IV and Marie Gay B. Naranjo, Clerk III (respondents), both of the Municipal Trial Court in Cities-Office of the Clerk of Court, Zamboanga City, arose from sworn complaints[1] filed by Maricis A. Alenio, Edison F. Amper, Nestor M. Appari, Lily dela Cruz, and Perigrino M. Macrohon (complainants). The complaints charged respondents with gross misconduct, dishonesty, and violation of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act.

In its 1[st] Indorsement dated 21 April 2004, the Office of the Court Administrator (OCA) required respondents to file their respective comments on Maricis A. Alenio's complaint within 10 days from notice.[2]

The OCA has summarized the antecedents, thus:

> Several Sworn Complaints were filed with the Office of the Court Administrator charging Clerk of Court IV Eladia T. Cunting and Clerk III Marie Gay B. Naranjo, both of the Municipal Trial Court in Cities-Office of the Clerk of Court, Zamboanga City, with Gross Misconduct, Dishonesty, and Violation of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act, as follows:
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> - Maricis A. Alenio's complaint dated 29 September 2003 relative to Criminal Case No. 45618-3426 for Violation of P.D. No. 1602, with accused Efren B. Marcial having posted a cash bail bond of P10,000.00;
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> - Edison F. Amper's complaint dated 24 October 2003 relative to Criminal Case No. 44882 for Grave Threats, accused Amper having posted a cash bail bond of P6,000.00;
>
> - Nestor M. Appari's complaint dated 16 December 2003 relative to Criminal Case no. 43919 for Slight Physical Injuries, with accused Appari having posted a cash bail bond of P2,000.00;
>
> - Lily dela Cruz's complaint dated 19 February 2004 relative to Criminal Case No. 45175 (6299-A) for Grave Slander, with accused Dela Cruz having posted a cash bail bond of P4,500.00; and
>
> - Perigrino M. Macrohon's complaint dated 29 March 2004 relative to Criminal Case No. 45492 (6436) for Theft, with accused Jayson Solis having posted a cash bail bond of P7,500.00.
>
> All the above complainants were the ones who personally deposited their respective cash bonds with respondent Naranjo who, in turn, issued them corresponding receipts. Subsequently, all the cases were terminated/dismissed and the bonds posted were ordered to be returned to them.
>
> All complainants chorus in saying that when they sought the return of their respective cash bonds, the Officer-in-Charge of the OCC, MTCC, Zamboanga City, informed them that the OCC could not return the

money because the cash bonds were not deposited with the Land Bank of the Philippines by the person who received them or by the accountable officer, hence, complainants believe that they were pocketed by either of the said persons.

In the Letter-Comment dated 7 June 2004, respondent Cunting completely denies the allegation that the amount of money representing the bail bonds posted were pocketed either by her or any other employee of the OCC as the same is bereft of factual and legal bases. She narrates the antecedent circumstances which could explain why she was not made aware of the complainants' claims, otherwise, she could have enlightened them on the matter.

Sometime in September 2003 while respondent Cunting was on official travel to Dipolog City, she was asked to go back to her official station because some internal auditors from the Supreme Court conducted inspection and audit of the financial documents in her office. Upon her return to Zamboanga City, however, she was advised by Executive Judge Efren S. Mariano to refrain from proceeding to her office so as not to interfere in the said audit. On the contrary, she was informed by her staff that the auditors intended to have a dialogue with her. She heeded the advise of the Executive Judge because of the latter's assurance that he will be the one who will have a dialogue with the auditors, hence, she was not able to talk to them.

According to the information received from the Office of the Executive Judge, respondent Cunting was temporarily relieved from office per Order of the Supreme Court. Relying thereon, she has refrained from reporting to office and has yet to receive the Court's written order. She has thus been deprived of her salaries and other benefits as the same have been held in abeyance accordingly upon instruction of the Executive Judge.

Respondent says that she had been apprised by the resident auditor of the discrepancies in the financial documents in her custody even prior to the Supreme Court audit. In the absence of pertinent financial documents, she could not as yet ascertain the authenticity of any claim for the release of bail bonds.

Respondent Cunting accuses the complainants of filing charges without any knowledge of the facts, merely relying on the allegations of some ill-motivated employees. She strongly believes she was not accorded due process and was not granted the benefit of the doubt when she was immediately relieved from office pending the results of the audit conducted by the internal auditors.

Nonetheless, respondent assures this Office that she would make herself available should she be required to answer any clarificatory and other relevant questions.

In her Comment-Answer dated 18 May 2004, respondent Naranjo says she was surprised when she received the complaint because she has been doing her job with utmost honesty, responsibility, integrity, efficiency and good faith, that's why she has never been charged before. Although she received the subject cash bonds, the same are covered by official receipts and as it has been the usual practice and procedure of her office, she immediately turned over the said bonds and receipts to co-respondent Cunting for appropriate action.

Respondent Naranjo categorically and specifically denies having pocketed or misappropriated the cash bonds. Like co-respondent Cunting, she is amenable to a clarificatory hearing to clear her name and reputation.[3]

The OCA's Report and Recommendation

On 4 February 2005, the OCA submitted its Evaluation Report. The OCA stated:

The desire of respondent Eladia T. Cunting, Clerk of Court IV (Cunting for short), to make her available should she be required to answer any clarificatory questions may be dispensed with considering that her letter-comment dated 7 June 2004 contains no specific allegations that would exonerate her for the charges against her, to wit:

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- She did not deny having received the cash bail bonds of the complainants. Machine copies of the official receipts are attached as annexes to the complaint.

- She did not deny the fact that the Court had ordered the cancellation of the subject bail bonds and their return to the complainants.

- She did not deny the assertion of the complainants that the cash bail bonds were not deposited in the bank. She violated the Supreme Court Circular No. 13-92 which commands that all fiduciary collections "shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized depository bank."

- She did not deny the claim of the complainants that despite their repeated demands, she has failed to return to them the subject cash bail bonds. Her failure to produce the cash bail bonds upon demand by the complainants is prima facie evidence that the missing funds had been utilized for her personal use and were therefore misappropriated. (U.S. vs. Feliciano, 15 Phil. 142)

- Evidently, respondent Cunting has committed the administrative offenses of Grave Misconduct and Dishonesty each of which carries the extreme penalty of dismissal (Omnibus Civil Service Rules, Rule IV, Sections 52 and 58). The Clerk of Court is an officer of the law who performs vital functions in the prompt and sound administration of justice. She performs a delicate function as designated custodian of the court's funds, revenues, records, properties and premises. As a public servant and as an officer of the court, the Clerk of Court must exhibit at all times the highest sense of honesty and integrity. Respondent Cunting's act of misappropriation of the cash bail bonds constitute grave misconduct and dishonesty and made unworthy of the public trust reposed on her. (Provincial Auditor Dizon vs. Atty. Bawalan, Clerk of Court, et. al. A. M. No. P-94-1031, July 1, 2003; Turibio vs. Atty. Ofilas, A.M. No. P-03-1714, February 13, 2004).

Co-respondent Marie Gay B. Naranjo committed no wrong doing. She simply performed as part of her duty as Clerk III in receiving the cash bail bonds and preparing the official receipts, after which, she turned them over to respondent Clerk of Court Cunting for her appropriate action. Said co-respondent Naranjo merely followed the usual practice and procedure of the Office of the Clerk of Court.

RECOMMENDATION: FOR ALL THE FOREGOING, it is hereby respectfully recommended for the consideration of this Honorable Court that this case be re-docketed as a regular administrative case and that Clerk of Court Eladia T. Cunting be dismissed from the service with forfeiture of retirement benefits, if any, with prejudice to her re-employment in any branch of the government including government owned or controlled corporations and further that the complaint against co-respondent Marie Gay B. Naranjo be dismissed for lack of merit.[4]

In its resolution dated 9 March 2005, the Court resolved to redocket the present case as a regular administrative matter and to require the parties to manifest within 10 days from notice whether they were willing to submit the case for resolution on the basis of the pleadings submitted.[5]

On 26 April 2005, respondent Naranjo manifested that she was willing to submit the case for resolution based on the pleadings filed.[6]

In its resolution dated 22 June 2005, the Court resolved to note respondent Naranjo's manifestation dated 26 April 2005 and to await the filing of manifestation by complainants and respondent Cunting.[7]

Complainants Amper, Dela Cruz, and Macrohon and respondent Cunting failed to file the required manifestation. This prompted the Court to issue a resolution on 31 August 2005 directing them to show cause why they should not be held in contempt of court for such failure and to comply with the resolution dated 9 March 2005, both within 10 days from notice.[8]

On 24 October 2005, complainant Macrohon filed his Manifestation and Compliance stating that 1) he received the resolution dated 31 August 2005; 2) he failed to comply with the resolution because of his unfamiliarity with the procedure concerning his complaint; 3) he was apologizing to the Court for his failure to comply with the resolution; and 4) he was submitting the case for resolution based on the pleadings filed.[9]

In its Resolution dated 20 November 2006, the Court resolved to consider complainants Alenio, Amper, Appari, and Dela Cruz and respondent Cunting to have waived their compliance with the resolution dated 9 March 2006 because of their failure to manifest their willingness to submit the case for resolution on the basis of the pleadings filed.[10]The Court's Ruling

We adopt the recommendation of the OCA.

The complaint against respondent Naranjo should be dismissed. As correctly found by the OCA, complainants failed to substantiate their charges against her.

With respect to respondent Cunting, while she "completely denied" having "pocketed" the cash bail bonds of complainants,[11] she did not deny having received the same. Also, she did not deny complainants' assertion that the cash bail bonds were not deposited in the Land Bank of the Philippines. Respondent Cunting's failure to account for funds deposited with her for safekeeping only means that she was remiss in her duty as a clerk of court and as custodian of the court's funds.

As an accountable officer, respondent Cunting was entrusted with the responsibility of collecting money belonging to the court. She exercised a very delicate function, that of being the custodian of the court's funds and revenues, records, properties, and premises. Clerks of court are presumed to know their duty to immediately deposit with the authorized government depositories the various funds they receive for they are not supposed to keep funds in their personal possession.[12] Even undue delay in the remittances of the amounts that they collect at the very least constitutes misfeasance.[13]

Clearly, respondent Cunting was liable for any loss, shortage, destruction, or impairment of the court's funds and properties.[14] Her position as an accountable officer carries a degree of trust of the highest order.[15]

Owing to the delicate position occupied by Clerks of Court in the judicial system, they are required to be persons of competence, honesty, and probity since they are specifically imbued with the mandate of safeguarding the integrity of the court and its proceedings, to earn and preserve respect for the court, to maintain loyalty to it and to the judge as superior officer, to maintain the authenticity and correctness of court records and to uphold the confidence of the public in the administration of justice. Clerks of court play a key role in the complement of the court and, thus, cannot be permitted to slacken on their jobs under one pretext or another.[16]

Respondent Cunting should know that her actuations reflect adversely on the integrity and efficiency of the judiciary. The conduct of all those involved in the administration of justice, from the judge to the lowliest clerk, is circumscribed with the heavy burden of responsibility, accountability, integrity, uprightness, and honesty. Because of the nature of their office, the officials and employees of the judiciary should serve as role models in the faithful observance of the constitutional canon that public office is a public trust.[17]

No other office in the government service exacts a greater demand for moral righteousness and uprightness from an employee than the judiciary.[18]

Dishonesty is the "disposition to lie, cheat, deceive, defraud or betray; untrustworthiness; lack of integrity; lack of honesty, probity, or integrity in principle; and lack of fairness and straightforwardness."[19]

Misconduct, on the other hand, is a transgression of some established and definite rule of action, more

particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment. The misconduct must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office.[20]

All these requisites are met in the present case. Respondent Cunting failed to live up to the high ethical standards demanded by the office she occupies. She also undermined the integrity of the service and jeopardized the public's faith in the courts. This leaves us no choice but to hold respondent Cunting liable for gross dishonesty and grave misconduct in office, and to order her dismissal from office.

Dishonesty and grave misconduct are grave offenses. They both carry the extreme penalty of dismissal from the service with forfeiture of all benefits, except accrued leave credits, and with prejudice to reemployment in any branch or agency of the government, including government-owned or controlled corporations.[21]

WHEREFORE, we find Eladia T. Cunting, Clerk of Court IV, Municipal Trial Court in Cities-Office of the Clerk of Court, Zamboanga City, GUILTY of gross dishonesty and grave misconduct. Accordingly, we DISMISS her from the service with forfeiture of all benefits, except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

We DISMISS the complaint against Marie Gay B. Naranjo, Clerk III of the same court, for lack of merit.

SO ORDERED.

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

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[1] Rollo, pp. 2, 6, 10, 14, and 18.

[2] Id. at 22 and 23.

[3] Id. at 30-32.

[4] Id. at 32-33.

[5] Id. at 34.

[6] Id. at 37.

[7]Id. at 41.

[8]Id. at 49.

[9] Id. at 52-54.

[10]Id. at 78.

[11] Id. at 25.

[12]Re: Report on the Financial Audit Conducted in the RTC, Branch 34, Balaoan, La Union, A.M. No. 02-1-66-RTC, 19 August 2004, 437 SCRA 72.

[13] Neri v. Hurtado, Jr., A.M. No. RTJ-00-1584, 18 February 2004, 423 SCRA 200.

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[14]Sy v. Esponilla, A.M. No. P-06-2261, 30 October 2006, 506 SCRA 14.

[15]Fojas, Jr. v. Rollan, 428 Phil. 22 (2002).

[16]OCA v. Saguyod, 429 Phil. 421 (2002).

[17] Aquino, Jr. v. Miranda, A.M. No. P-01-1453, 27 May 2004, 429 SCRA 230.

[18] Ito v. De Vera, A.M. No. P-01-1478, 13 December 2006, 511 SCRA 1; Madrid v. Quebral, 459 Phil. 306 (2003).

[19] Servino v. Adolfo, A.M. No. P-06-2204, 30 November 2006, 509 SCRA 42.

[20] Imperial v. Santiago, Jr., 446 Phil. 104 (2003).

[21] Sections 52, paragraph A(3) and 58(a), Rule IV, Uniform Rules on Administrative Cases in the Civil Service.

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