

**FLORENTINO R. BRUCAL AND CESAR A. CRUZ, PETITIONERS, VS.
HON. ANIANO A. DESIERTO, OMBUDSMAN, HON. SIMEON A.
DATUMANONG, SECRETARY OF THE DEPARTMENT OF PUBLIC
WORKS AND HIGHWAYS,...**

G.R. No. 152188. July 08, 2005

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This Petition for Review on Certiorari with a prayer for the issuance of a Temporary Restraining Order and Writ of Preliminary Injunction seeks the reversal of the Court of Appeals' Decision,[1] dated June 22, 2001, and its Resolution,[2] dated November 20, 2001, in CA-G.R. SP No. 53512. The Court of Appeals affirmed the Ombudsman's Resolution[3] in OMB-ADM-0-93-0173, dated August 4, 1998, dismissing herein petitioners Florentino R. Brucal and Cesar A. Cruz for dishonesty and gross neglect of duty with respect to the irregularities which allegedly attended the construction of the barangay high school building in Inaclagan, Gumaca, Quezon.[4]

The facts are as follows:

Petitioners Florentino R. Brucal and Cesar A. Cruz were members of the Second Engineering District Prequalification, Bids and Awards Committee (PBAC) of the Department of Public Works and Highways (DPWH).[5] Brucal was the project engineer while Cruz was the chief of the construction section of the Inaclagan Barangay High School Project.

Petitioners were among the respondents in the Administrative Complaint,[6] docketed as OMB-ADM-0-93-0173, filed on November 18, 1992, by the OMB Task Force on Public Works and Highways following an investigation on the complaint of the spouses Narciso and Heidi Pita of Manex Construction and Supplies. They were charged with Dishonesty, Falsification of Official Documents, Grave Misconduct, Violation of Office Rules and Regulations, and Conduct Prejudicial to the Best Interest of the Service[7] for irregularities in connection with the bidding, award, and implementation of contracts in the province of Quezon.[8]

In its investigation, the OMB Task Force found that on February 5, 1990, a construction project worth P281,475.30 for a three-classroom building at the Inaclagan Barangay High School, Gumaca, Quezon, was awarded by the PBAC to contractor RAM Builders.[9] However, during its construction, RAM Builders allegedly committed substantial deviations from the approved plans and specifications of the DPWH.[10] An oversight committee[11] reported that RAM Builders used commercial, substandard-size steel bars instead of standard-size steel bars.[12]

RAM Builders was permitted to resume construction, but it was required to make additional reinforcements to attain the strength required for the foundation. Instead of having four pieces of steel bars for every column post using standard size, six pieces of steel bars were required. Pouring of mix concrete in the existing foundation and the replacement of the poor lumber used were also required.[13]

In its claim for payment, RAM Builders requested inspection and verification of the project. A Statement of Work Accomplished,[14] dated April 4, 1990, was prepared containing the following certifications: (1) As contractor, RAM Builders certified that the amount stated were correct and the materials used in the project were paid; (2) As chief of the construction section, petitioner Cruz certified that all work items have been accomplished in accordance with the approved plans, specification and program of work; (3) As chief of the research and standard section, Engr. Gerardo A. Razo certified that the materials used in the project have been tested and have passed all requirements.[15] Likewise, petitioner Brucal signed (1) the request for inspection and verification; (2) the certification dated April 4, 1990, to the effect that he had witnessed the payment of salaries and suppliers in connection with the Inaclagan project, that no claim for unpaid materials had been filed by local suppliers against RAM Builders, and that they had been paid; and (3) the certificate of clearance for equipment rental and other obligations which allowed RAM Builders to claim payment.[16] Brucal also submitted and signed the Statement of Time Elapsed of Work Accomplished.[17]

However, the OMB Task Force concluded after its investigation that,

... [T]here were major defects in the construction of the school building as a direct result of the contractor's improper methods and its use of substandard materials (reinforcement steel bars and lumber). All these, if left unchecked, would have resulted in the construction of a school building which was far weaker in strength than that envisioned by the planners. Considering the degree of deviation from the approved plans and specifications, it could rightfully be concluded that the same had been deliberate. It must be added that there could be no truth to the claim that the contractor's employee had not afforded proper attention to the materials delivered for the project because RAM Builders is also a dealer/supplier of construction materials. From available records, RAM Builders has been a regular supplier of construction materials for projects implemented by the DPWH district office in Lucena City. In all probability, the undersize reinforcement steel bars and poor-quality lumber that were used in the Inaclagan school building project had been supplied by RAM builders itself; such that even before the delivery of said articles to the job site, the contractor (which was at the same time the supplier) already knew that they were not in accordance with the approved plans and specifications. Moreover, it must be presumed that the contractor's employees including its project engineer are knowledgeable about construction materials and methods used in the implementation of public works projects. This being the case, there could not have been an honest mistake in regard to the improper methods utilized and the substandard quality of the basic materials used. Under the circumstances, the contractor should have been compelled to undo what he had unlawfully done by ordering the demolition of what had been constructed so far to ensure strict compliance with the approved plans and specification.[18] [Emphasis supplied.]

...

In a Resolution, dated August 4, 1998, the Administrative Adjudication Bureau of the OMB through Graft Investigation Officer II (GIO) Joselito P. Fangon found the petitioners administratively liable for dishonesty and gross neglect of duty. He recommended the dismissal of the petitioners with forfeiture of leave credits and retirement benefits and disqualification for reemployment in the government service, to wit:

II

As to the charge of Falsification and/or Dishonesty, respondents were denounced for making it appear that the construction of the three (3) classroom buildings at the Inaclagan Barangay High School was in accordance with the plans and specifications, when in truth there were substantial deviations in terms of materials, quality of work and construction methods.

The improper construction and use of substandard materials [were] established by the end user particularly the Principal of Inaclagan High School, Mrs. AUREA D. QUISTO, after having made inquiries as to the materials delivered and the method of construction (p.0375, records). Moreover, it appears that the fact of improper

construction and use of substandard materials by the contractor was affirmed by the DPWH Regional Director ALFREDO P. TORRES, as evidenced by his letter dated 26 September 1990 (p. 0318, records) addressed to the DPWH District Engineer, Quezon 2[nd] Engineering District.

Thus, on the basis of the foregoing, it is apparent that substantial evidence exist to hold the following respondents administratively liable for Dishonesty, viz:

- CESAR A. CRUZ, Chief, Construction Section who by reason of his duties was bound to ensure that the contractor complied with the proper method of construction, as evidenced by the fact that he signed the statement of work accomplished. Thus, his act of signing the same, despite the fact that the proper methods of construction [were] not complied with, amounts to dishonesty.

- FLORENTINO R. BRUCAL, Engineer III, who was duty bound to ensure that the contractor complies with the approved plans and specifications. Hence, his act of signing the statement of time elapsed and statement of work accomplished constitutes fraud and dishonesty vis-à-vis the contractor's obligation relative to the plans and specifications.

...

III

Respondents have been charged with complicity in the irregular construction of three (3) classroom buildings at Inaclagan Barangay High School. It was alleged that the contractor used substandard materials and employed improper construction methods in the construction of the Barangay High School Building in Inaclagan Gumaca, Quezon.

It appears that with regard to the project in question, respondent PANGANIBAN, as District Engineer; respondent MERCADO, as Chief of the Planning and Design Section; respondent CRUZ, as Chief of the DPWH Construction Section; and respondent BRUCAL, as Project Engineer, [have] established that undersized reinforcement steel bars and poor quality lumber were used by the contractor in the Inaclagan School Building. Thus, it is apparent that respondents PANGANIBAN, CRUZ, and BRUCAL [cannot] escape administrative liability for Gross Neglect of Duty for their serious lapses and gross negligence relative to their official responsibility in the matter of adherence to the approved plans and specifications and accepted engineering methods.

It is important to consider herein that the claim of respondents CRUZ and BRUCAL that corrective measures were undertaken vis-à-vis the Inaclagan project does not serve to rebut their clear administrative liability. Verily, their culpability in connection with the Inaclagan project had already arisen before the so-called corrective measures were undertaken.

...

WHEREFORE, PREMISES CONSIDERED, this Office finds:

- Respondents CESAR A. CRUZ, ALFONSO A. CUSTODIO, JR., EDUARDO V. MALLARI, JOSE E. ALMERO and ROLANDO C. ABRIGO, Guilty of Dishonesty;
- Respondents CESAR A. CRUZ and FLORENTINO P. BRUCAL, Guilty of Dishonesty;
- Respondents CESAR A. CRUZ and FLORENTINO BRUCAL, Guilty of Gross Neglect of Duty;
- Respondents CESAR A. CRUZ, ALFONSO A. CUSTODIO, JR., JOSE E. ALMERO, EDUARDO V. MALLARI and ROLANDO ABRIGO, Guilty of Gross Neglect of Duty; and,
- Respondents CESAR A. CRUZ, ROLANDO C. ABRIGO, JOSE E. ALMERO and MA. LUISA BRUSILLA, Guilty of Grave Misconduct;

for which the penalty of Dismissal from the Service with Cancellation of Eligibility, Forfeiture of Leave Credits and Retirement Benefits and Disqualification for Reemployment in the Government Service is hereby recommended pursuant to Rule III, Section 10 of Administrative Order No. 07, in relation to Section 25 of Republic Act No. 6770.

It is further recommended that the complaint against ROMEO V. ALGENIO, FE Z. NACORDA, MANUEL BAYANI R. BUKAS, ERNANI C. TAN and UMILTA A. LORCA be Dismissed.

SO RESOLVED.[19] [Emphasis supplied.]

The Resolution was approved by the Ombudsman on November 11, 1998. Separate motions for reconsideration[20] were filed by petitioners. However, they were denied in the Order[21] dated March 2, 1999, upon recommendation of GIO Fangon.

On appeal, the Court of Appeals affirmed with modification the Resolution of the Ombudsman, to wit:

IN THE LIGHT OF ALL THE FOREGOING, the herein assailed Resolution, dated August 4, 1998, of the Respondent Ombudsman is hereby AFFIRMED with respect to the following disposition of the Respondent Ombudsman, respecting the irregularities which attended the construction of the Barangay High School Building in Inaclagan, Gumaca, Quezon, finding:

- Respondents CESAR A. CRUZ and Florentino Brucal, Guilty of Dishonesty; and
- Respondents CESAR A. CRUZ and Florentino Brucal, Guilty of Gross Neglect of Duty;

...

For which the Penalty of Dismissal from the Service with Cancellation of Eligibility, Forfeiture of Leave Credits and Retirement Benefits and Disqualification for Reemployment in the Government Service is hereby recommended pursuant to Rule III, Section 10 of Administrative Order No. 07, in relation to Section 25 of Republic Act No. 6770.

...

but MODIFIED in that:

- The charges of DISHONESTY and GROSS NEGLECT OF DUTY against Petitioners CESAR A. CRUZ, EDUARDO V. MALLARI, JOSE E. ALMERO and ROLANDO ABRIGO, appertaining to the alleged irregularities committed by the Prequalification, Bids and Awards Committee Quezon 2[nd] Engineering District (hereinafter referred to as PBAC II, for brevity), Department of Public Works and Highways (DPWH), in the award of projects to certain contractors, are DISMISSED on the ground of res judicata; and
- The charge of GRAVE MISCONDUCT against Petitioners CESAR A. CRUZ, ROLANDO ABRIGO, JOSE E. ALMERO and MA. LUISA R. BRUSILLA, anent the alleged collusion among the contractors, [is] DISMISSED for lack of merit.

SO ORDERED.[22]

Petitioners' motion for reconsideration[23] was likewise denied by the appellate court in its Resolution[24] dated November 20, 2001. Hence, the instant petition for review on certiorari.

Before us, the lone issue presented is:

WHETHER OR NOT PETITIONERS BRUCAL AND CRUZ, BEING THE CHIEF OF DPWH CONSTRUCTION SECTION AND PROJECT ENGINEER, RESPECTIVELY, COULD LEGALLY AND

VALIDLY BE HELD LIABLE FOR DISHONESTY AND GROSS NEGLECT OF DUTY IN SIGNING THE STATEMENT OF WORK ACCOMPLISHED AND STATEMENT OF TIME ELAPSED.[25]

Petitioners concede that there had been lapses in the initial construction of the Inaclagan project. However, they invoke that they urgently caused the contractor to rectify the errors.[26]

For the charge of dishonesty, the petitioners contend that the questioned decision is based on a misapprehension of facts. They allege that they signed the Statement of Work Accomplished as well as the Statement of Time Elapsed on April 4, 1990, after corrective measures were undertaken on the project.

Petitioner Brucal contends that he cannot be held liable for dishonesty emphasizing that he was signatory solely on the Statement of Time Elapsed, a document which pertains to the original contract time, date of effectivity of contract, contract amount, total calendar days elapsed to date, percentage of time elapsed, percentage of work accomplished and slippage.[27] It had nothing to do with the materials used in the project nor the manner of its construction in accordance with the approved plans and specifications as charged.[28] Petitioner Cruz, for his part, contends that he cannot be faulted for relying on Engr. Razo's certification that the materials used in the project had been tested and had passed all the requirements.[29] As enunciated in *Sistoza v. Desierto*[30] and *Arias v. Sandiganbayan*,[31] Cruz avers that as head of office, he can, to a reasonable extent rely on his subordinate.

On the charge of gross neglect of duty, petitioners submit that there could be no administrative culpability as they acted in good faith.[32] They both attended to other simultaneous on-going projects and thus could not be physically present everyday during the construction of the Inaclagan project. In most cases, the project engineer gave only instructions to the contractor and its resident engineer. As in the Inaclagan project, they asked the barangay officials to oversee the project. Finally, petitioners also invoke in their favor, the swift and decisive remedies they employed upon learning about the defects in the construction[33] and their untainted service record[34] which spans thirty-one years for Brucal and forty-two years for Cruz.[35]

The OMB, through the Office of the Solicitor General, counters that petitioners' claim that they signed the Statement of Work Accomplished only after corrections were made in the construction and in compliance with plans and specifications is a factual matter that cannot be raised for the first time in this petition for review. Contrary to petitioners' claim, they are being charged based on their respective duties. As Project Engineer, the nature of Brucal's official duties obligated him, together with Cruz, as Chief, to oversee the implementation of the project and determine if the contractor of the project was complying with the approved plans and specifications by the DPWH.[36] On the other hand, as Chief of the Quezon Second Engineering District Construction Section, Cruz's primary duty was to ensure that RAM Builders complied with standards and specifications of the DPWH.

While we agree with public respondent that factual matters are beyond the province of this Court, a recognized exception to this rule is when there is misapprehension of facts.[37] It must be stressed that petitioners were held liable for falsification and/or dishonesty for allegedly making it appear that the construction of the three-classroom building at the Inaclagan Barangay High School was in accordance with the plans and specifications, although there were substantial deviations in terms of materials, quality of work and construction methods.[38] For petitioner Cruz, signing the Statement of Work Accomplished, despite the fact that the proper methods of construction were not complied with, amounts to dishonesty. On Brucal's part, signing the Statement of Time Elapsed constitutes fraud and dishonesty vis-à-vis the contractor's obligation relative to the plans and specifications as it allowed payment to RAM Builders. Clearly, the petitioners' factual averment that the said statements were signed after corrections were made need to be ascertained to determine their liability on the charge for dishonesty. As defined, dishonesty is intentionally making a false statement in any material fact, or practicing or attempting to practice any deception or fraud in securing his examination, registration, appointment

or promotion.[39] Dishonesty is understood to imply a disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity.[40]

A careful perusal of the records reveals that after the award of the Inaclagan project to RAM Builders on February 5, 1990, construction commenced on February 26, 1990. Despite the interruption in the construction due to defects, as reported by the oversight committee in its letters to District Engineer Medardo R. Panganiban, the corrective measures were undertaken by RAM Builders upon resumption of its construction on March 28, 1990. By the first week of April, the project was completed.[41] Claim for payment was thereafter processed on April 4, 1990. Clearly, when the petitioners signed their respective statements which allowed payment to RAM Builders, the construction of the project was already finished in accordance with the approved plans and specification. Such did not amount to dishonesty as they made no false statement. No deliberate intent to mislead, deceive or defraud can be read from the cited circumstances of this case.

Anent the charge of gross neglect, we are in accord with the findings of the OMB Adjudication Bureau, as affirmed by the Court of Appeals, finding herein petitioners liable for gross neglect of duty. Gross negligence refers to negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally, with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.[42] In cases involving public officials, there is gross negligence when a breach of duty is flagrant and palpable.[43]

As found by the OMB Task Force, the construction of the school building suffered from major defects, resulting in an edifice far weaker in strength as a direct result of the contractor's improper methods and use of substandard materials. As a corrective measure, additional reinforcement steel bars had to be added, inferior lumber removed and pouring of concrete cement over the existing foundation made.

We find that petitioners were unable to satisfactorily explain their failure to oversee the project in its critical stages. Their defense that corrections were nevertheless employed and that they handled other projects do not negate their administrative liability. Instead, it is indicative of a conscious design to delegate the vital task incumbent upon them as engineers whose appointment to such position is by reason of their academic preparation and work experience to conceptualize, plan, implement and manage a development project of the government.

The responsibility of overseeing the implementation of the Inaclagan project is lodged with the petitioners. They were to ensure adherence by the contractor to the approved plans, specifications, and accepted engineering methods. In fact, as project engineer,[44] Brucal's tasks, as spelled out in the Manual on Infrastructure Projects, include monitoring slippages[45] and non-compliance of the contractor with approved plans and specifications.[46]

Evidently, they failed to timely perform their assigned duties with dedication, efficiency, and utmost responsibility, ideals which men and women in public service ought to cherish and dutifully observe. On the whole, petitioners as construction engineers in charge of the Inaclagan project, should be fully cognizant not only of the professional nature and responsibilities of the task but its impact as well on the efficiency of public service. As public servants, petitioners are expected to exhibit the highest degree of dedication in deference to their foremost duty of accountability to the people.[47] No less than the Constitution sanctifies the principle that public office is a public trust, and enjoins all public officers and employees to serve with the highest degree of responsibility, integrity, loyalty and efficiency.[48]

Pursuant to Section 23,[49]Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292, gross negligence in the performance of duty is classified as a grave offense for which the penalty of dismissal is

imposed. Section 9 of the said Rule likewise provides that the penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits and the disqualification for re-employment in the government service.[50]

Fortunately, the construction defects were remedied seasonably and the project at Inaclagan High School was completed without further mishaps.

WHEREFORE, the petition is DENIED. The assailed Decision and Resolution of the Court of Appeals dated June 22, 2001 and November 20, 2001, respectively, finding Engr. Florentino R. Brucal and Cesar A. Cruz liable for Gross Neglect of Duty and imposing the penalty of dismissal from the service, are AFFIRMED with MODIFICATION, such that the portion dealing with cancellation of eligibility, forfeiture of leave credits and retirement benefits and disqualification for reemployment in the Government Service is DELETED. Costs against petitioners.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, and Azcuna, JJ., concur.
Carpio, J., on official leave.

* Sometimes "P" in some parts of the records.

[1] Rollo, pp. 427-446. Penned by Associate Justice Candido V. Rivera, with Associate Justices Conchita Carpio Morales (now a member of this Court), and Rebecca De Guia-Salvador concurring.

[2] Id. at 476-478.

[3] Id. at 34-47.

[4] Id. at 445-446.

[5] Now second and third districts, Lucena City and Catanauan respectively. Previous to September 5, 1990, the Province of Quezon had only two (2) Engineering Districts. By virtue of D.O. No. 182 issued by then DPWH Secretary Fiorello R. Estuar, an additional Engineering District Office (Quezon I) with headquarters in Mauban, Quezon, was created causing the reconstitution/renaming of the then existing first (based in Lucena City) and second (based in Catanauan) engineering district offices as the Quezon Second Engineering District Office and Quezon Third Engineering District Office, respectively. See Records (Folder I), p. 10.

[6] Records (Folder I), pp. 1-3, 8-36.

[7] Id. at 1. But see Rollo, p. 427 CA Decision, dishonesty, gross neglect of duty, falsification of official documents and grave misconduct.

[8] Supra, note 6.

[9] Id. at 11.

[10] Id. at 15.

[11] Principal, Mrs. Aurea P. Quisto; Barangay Captain, Mr. Isidro Cantollas; Barangay Councilmen, Mr. Rodel Balbao, Mr. Aurelio Amador and Mr. Oscar Buagas; Philippine Teacher's Association (PTA) President Mr. Rogelio Caperiña; Project Engineer Florentino R. Brucal; and Chief Engr. Cesar A. Cruz. See Records (Folder I), p. 12.

[12] Records (Folder I), pp. 12-13.

[13] Id. at 13-14.

[14] Id. at 596; Rollo, p. 221.

[15] Ibid.

[16] Rollo, p. 89.

[17] Id. at 222, 494-A; see also Records (Folder I), p. 551.

[18] Records (Folder I), pp. 15-16.

[19] Id. at 405-411.

[20] Rollo, pp. 48-60.

[21] Id. at 85-90.

[22] Id. at 445-446.

[23] Id. at 447-467.

[24] Id. at 476-478.

[25] Id. at 601.

[26] Id. at 651.

[27] Id. at 604-605.

[28] Ibid.

[29] Id. at 605.

[30] G.R. No. 144784, 3 September 2002, 388 SCRA 307.

[31] G.R. Nos. 81563 & 82512, 19 December 1989, 180 SCRA 309.

[32] Rollo, p. 610.

[33] Id. at 610-611.

[34] Id. at 493-494.

[35] Id. at 612.

[36] Id. at 635.

[37] Antonio v. Hon. Villa, G.R. No. 144694, 28 March 2005, p. 17 citing Firme v. Bukal Enterprises and Development Corporation, G.R. No. 146608, 23 October 2003, 414 SCRA 190. See also Vera Cruz v. Calderon, G.R. No. 160748, 14 July 2004, 434 SCRA 534.

[38] Rollo, p. 439.

[39] Sevilla v. Gocon, G.R. No. 148445, 16 February 2004, 423 SCRA 98, 106 citing Aquino v. The Gen. Mgr. of the GSIS, No. L-24859, 31 January 1968, 130 Phil. 488, 492.

[40] Ibid., citing Phil. Amusement and Gaming Corp. v. Rilloraza, G.R. No. 141141, 25 June 2001, 412 Phil. 114,

133.

[41] Records (Folder I), p. 10.

[42] *De la Victoria v. Mongaya*, A.M. No. P-00-1436, 19 February 2001, 352 SCRA 12, 20 citing *Fonacier v. Sandiganbayan*, G.R. No. 50691, 5 December 1994, 238 SCRA 655; *Alejandro v. People*, G.R. No. 81031, 20 February 1989, 170 SCRA 400.

[43] *Ibid.*, citing *Quibal v. Sandiganbayan* (Second Division), G.R. No. 109991, 22 May 1995, 244 SCRA 224.

[44] Project Engineer

Is an engineer employed by the agency (national, local and government owned or controlled corporation) to oversee the implementation of the project. See *Manual on Infrastructure Projects*, p. 165.

[45] Slippage

A delay in work execution occurring when actual accomplishment falls below the target as measured by the difference between the scheduled and actual accomplishment of the Work by the Contractor as established from the work schedule, whether indicated in the form of a bar chart or an approved PERT/CPM or by any other means. See *Manual on Infrastructure Projects*, p. 167.

One of the tasks of the Project Engineer is to monitor whether or not the project is on schedule per approved PERT/CPM Network Diagram. If a work activity in the project is not being done on schedule, he immediately prepares a directive for the signature of the head of the agency concerned, for the contractor to immediately undertake the work activity.... [Emphasis supplied.] See *Manual on Infrastructure Projects*, p. 91.

[46] Non-compliance with plans and/or specifications

Through his routine inspection of the project accomplishments, the Project Engineer determines occasions of noncompliance by the contractor with plans and/or specifications or any terms, conditions, covenants, or agreements of the project, and he prepares a document directing the contractor to repair or reconstruct the portions which are not in accordance with requirements or he recommends termination of the contract and Government take-over. The document is signed by the Agency head and served to the contractor and to the concerned agency officials for implementation. Repair or reconstruction of portions which are not in accordance with plans and/or specifications is done by the contractor at his own expense. Should the contractor fail to comply with the directive within a reasonable time, the Project Engineer may recommend forfeiture of the contractors performance security and termination of the contract. [Emphasis supplied.] See *Manual on Infrastructure Projects*, p. 93.

[47] *Castillo v. Buencillo*, Adm. Mat. No. P-97-1241, 20 March 2001, 354 SCRA 641, 649 citing *Gacho v. Fuentes, Jr.*, A.M. No. P-98-1265, 29 June 1998, 291 SCRA 474, 482.

[48] Const. Art. XI, Sec. 1.

[49] Sec. 23. Administrative offenses with its (sic) corresponding penalties are classified into grave, less grave, and light, depending on the gravity of its (sic) nature and effects of said acts on the government service.

The following are grave offenses with its corresponding penalties:

(a) Dishonesty

1[st] Offense - Dismissal

(b) Gross neglect of duty

1[st] Offense - Dismissal

...

[50]Re: Report on Audit and Physical Inventory of the Records of Cases in MTC of Peñaranda, Nueva Ecija, A.M. Nos. 95-6-55-MTC & P-96-1173, 28 July 1997, 276 SCRA 257, 274.

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