



Republic of the Philippines
Supreme Court
 Manila

EN BANC

SUPREME COURT OF THE PHILIPPINES
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ATTY. JUVY MELL S. MALIT,
Complainant,

A.M. No. P-15-3301
(Formerly OCA IPI No. 13-4085-P)

Present:

- versus -

GESMUNDO, *Chief Justice,*
 PERLAS-BERNABE,
 LEONEN,
 CAGUIOA,
 HERNANDO,
 CARANDANG,
 LAZARO-JAVIER,
 INTING,
 ZALAMEDA,
 LOPEZ,
 DELOS SANTOS,
 GAERLAN, *and*
 ROSARIO, *JJ.*

MARLYN C. GLORIA,
Junior Process Server,
Municipal Circuit Trial Court
[MCTC], Dinalupihan-Hermosa,
Dinalupihan, Bataan,
Respondent.

Promulgated:
 May 11, 2021

X-----X

DECISION

PER CURIAM:

For the Court's consideration is the Administrative Complaint¹ for Gross/Grave Misconduct and Dishonesty filed by complainant Atty. Juvy Mell S. Malit (Atty. Malit) against herein respondent Marlyn C. Gloria for receiving a total amount of ₱36,000.00 from the complainant's clients as cash bail which she, however, did not turn over and apply as bail.

¹ Rollo, pp. 1-6.

The Antecedents

Atty. Malit was the legal counsel of Reynaldo Vergara (Vergara) and his company, Vercons Trading and Merchants Corporation. For four years, she handled all the cases and legal matters pertaining to Vergara.²

In 2000, three criminal cases were filed against Vergara and his sister, Erlinda Malibiran (Malibiran), by one Loida Manalansan. Vergara only knew of these cases when he applied for a bank loan.³

Hence, as the recommended bail was ₱12,000.00 for each case, Malibiran's secretary, Ruby Santos (Santos), gave the total amount of ₱36,000.00 to herein respondent Marlyn C. Gloria, the Junior Process Server at the Municipal Circuit Trial Court of Dinalupihan-Hermosa in Dinalupihan, Bataan, as payment for Vergara's bail.⁴ For this, respondent issued two unofficial receipts⁵ evidencing payment for the amount of ₱24,000.00 dated July 16, 2002 and another for the amount of ₱12,000.00 which was paid on August 8, 2002.

However, the cases filed against Vergara and Malibiran were never set for hearing after the issuance of the warrants of arrest.⁶ Likewise, the case folders of the criminal cases could no longer be found.⁷

When Atty. Malit inquired from the Office of the Clerk of Court, she found out that the criminal cases were filed on June 8, 2000 and that warrants of arrest were issued on April 18, 2002 for Criminal Case No. 10541, and on July 1, 2002 for Criminal Case Nos. 10542 and 10543. However, except for the entries pertaining to a bail of ₱12,000.00 for each case, no other entries were found in the docket book pages.⁸

Thus, Atty. Malit entered her appearance as counsel for Vergara and Malibiran and filed a Manifestation with Motion to Lift Warrants of Arrest for the reason that her clients already posted bail. This, however, was denied in an Order dated April 18, 2013 on the ground that the accused failed to present evidence that they had actually posted bail.⁹

² Id. at 91.

³ Id.

⁴ Id.

⁵ Id. at 7.

⁶ Id. at 91.

⁷ Id.

⁸ Id.

⁹ Id. at 92.

Consequently, Atty. Malit sent a letter to herein respondent demanding her to pay to the court the amount of ₱36,000.00 which she received so that her clients would no longer be arrested.¹⁰ Respondent failed to perform the act demanded of her hence, the filing of the Letter Complaint¹¹ dated April 19, 2013 against her by Atty. Malit before the Office of the Court Administrator (OCA). According to Atty. Malit, respondent's acts of receiving the amount of ₱36,000.00 and not immediately applying the same to the bail of her clients constitute gross/grave misconduct and dishonesty.¹²

For her part, while respondent openly admitted to having received the amount of ₱36,000.00 from Atty. Malit's clients, she, however, denied¹³ any administrative liability as she claimed that said amount was turned over to the former Clerk of Court, Virgilio Mejia, Sr. (Mejia). This assertion was supported by Mejia who even executed a Sworn Affidavit¹⁴ dated April 23, 2013 stating that the said cash bails were turned over to him by a certain Marlyn Gloria which he also deposited to the Land Bank of the Philippines – Dinalupihan Branch. Said sworn affidavit was submitted by the respondent to court as evidence. Likewise, respondent did not refute the allegation that she issued two acknowledgment receipts when she received the sum of money, nor did she deny the same when Atty. Malit presented said receipts as evidence.¹⁵

Respondent further alleged that she only received the payment because the clerk of court was outside the court premises at that time, and that she did not personally benefit from the said amount.¹⁶ She also denied involvement as regards the missing case records as this, according to her, was due to flood caused by typhoon Habagat that year which destroyed the records and files in court.¹⁷

Meanwhile, to date, respondent is already retired from the service having availed of optional retirement effective May 9, 2014.¹⁸ Likewise, another case against her was filed and pending, this time for conduct unbecoming a court employee entitled "*Concerned Citizen v. Marlyn C. Gloria, Process Server, Municipal Circuit Trial Court, Dinalupihan-Hermosa, Bataan*" and docketed as UDK A 20130311-01.¹⁹ Further, an Affidavit of Recantation²⁰ was later executed by Mejia declaring that not a single centavo was turned over to him

¹⁰ Id.

¹¹ Id. at 1-6.

¹² Id. at 92.

¹³ Id.

¹⁴ Id. at 90.

¹⁵ Id. at 93.

¹⁶ Id. at 92.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 92-93.

²⁰ Dated September 16, 2013. Id. at 89.

by the respondent and that he was merely coerced by the latter to execute the earlier affidavit.

The Report and Recommendation of the OCA

On November 5, 2014, the OCA issued its evaluation finding that the complaint against respondent is impressed with merit.²¹ According to the OCA, the fact that respondent readily admitted having received the total amount of ₱36,000.00 from Atty. Malit's client is already a clear act of grave misconduct under the provisions of Rule 10, Section 46, paragraph A(3) of the Revised Rules on Administrative Cases in the Civil Service (RRACCS). The OCA also pointed out that receiving cash bonds from litigants or the accused is not within the duties of a process server under the 2002 Revised Manual for Clerks of Court. The OCA recommended, thus –

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

1. the administrative complaint against Marlyn C. Gloria, Junior Process Server, Municipal Circuit Trial Court, Dinalupihan, Bataan, be RE-DOCKETED as a regular administrative matter;
2. respondent Marlyn C. Gloria be found GUILTY of GRAVE MISCONDUCT for receiving the amount of Php 36,000.00 representing the cash bail bonds of Mr. Reynaldo Vergara and Ms. Erlinda Malibiran; and
3. respondent Marlyn C. Gloria be FINED in the amount of Php 30,000.00 to be deducted from her retirement benefits and/or monetary value of leave credits due her.²²

The Court's Ruling

It is a consistent reminder among court personnel that the image of a court, as a true temple of justice, is reflected in the conduct, whether official or otherwise, of the men and women working thereat. Hence, judicial personnel are expected to be living examples of uprightness in the performance of official duties to preserve at all times the good name and standing of the courts in the community²³ as well as to maintain the confidence the people have in the Judiciary.

²¹ Id. at 96.

²² Id. at 94-95.

²³ *Mataga v. Judge Rosete*, 483 Phil. 235, 242 (2014).

This expectation is enforced by Section 2, Canon 1 of the Code of Conduct of Court Personnel which mandates that “[c]ourt personnel shall not solicit or accept any gift, favor or benefit based on any or explicit understanding that such gift, favor or benefit shall influence their official actions.”

Likewise, Section 2(e), Canon III, provides that “[c]ourt personnel shall not x x x [s]olicit or accept any gift, loan, gratuity, discount, favor, hospitality or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court personnel in performing official duties.”

Indeed, these acts are strictly prohibited as these may give the perception that court personnel can be influenced to act for or against a party or person in exchange for favors.

In this case, it is undeniable that the conduct of respondent in receiving the amount from a party litigant, regardless of intention, is in itself violative of the rules prescribed, as such was not part of her duties as a court process server. In this light, the duties of a process server under the 2002 Revised Manual for Clerks of Court are quoted hereunder:

- a. to serve court processes such as subpoena, summons, court order and notice;
- b. to prepare and submit returns of court processes;
- c. to monitor messages and/or deliver court mails;
- d. to maintain and keep custody of record book of court mail matters received and dispatched by him; and
- e. to perform such other duties as may be assigned to him.

Clearly, a process server is not authorized to collect or receive any amount of money from any party-litigant as such is not included in the duties and functions prescribed in the aforesaid manual. The fact that respondent received an amount from Atty. Malit’s clients and worse, not turn over the same to the clerk of court, and which would not have been discovered had Atty. Malit failed to inquire about the cash bail bond from her clients, only shows that respondent is guilty of grave misconduct in office.

Misconduct is defined as intentional wrongdoing or deliberate violation of a rule of law or standard of behavior. To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official

functions and duties of a public officer.²⁴ On the other hand, in grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, and not a mere error of judgment or flagrant disregard of an established rule must be manifest.²⁵

It should be noted that one's grave offense is labelled as "grave misconduct" under the Uniform Rules on Administrative Cases in the Civil Service (URACCS), and referred to as "gross misconduct" under Rule 140 of the Revised Rules of Court (Rules). However, in the latest amendment of Rule 140 of the Rules, it is clear that grave offense under the Civil Service Laws and the Rules is tantamount to a gross misconduct.²⁶

As to its proper imposable penalty, respondent committed the offense in 2002 at the time when the URACCS, which was promulgated on September 14, 1999, was still in effect. Pursuant to Section 52, Rule IV of the URACCS, gross misconduct is a grave offense that carries the extreme penalty of dismissal from the service even on a first offense. On the other hand, Section 58(a) of the URACCS provides that the penalty of dismissal carries with it the accessory penalties of forfeiture of retirement benefits and perpetual disqualification from re-employment in the government service.

However, Section 25(A)(1), Rule 140 of the Rules provides that:

1. Dismissal from the service; forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. **Provided, however, that forfeiture of benefits shall in no case include accrued leave credits.** (Emphasis supplied)

In the recent *En Banc* case of *Dela Rama v. De Leon*,²⁷ the Court emphasized that Rule 140 of the Revised Rules of Civil Procedure is generally applicable to court employees over the URACCS or the RRACCS, unless it is prejudicial to the employee.

As the later pronouncement is not prejudicial to herein respondent, and for the sake of uniformity in the application of charges and imposition of penalties in administrative cases involving Judiciary personnel, Section 11 of Rule 140 of the Rules will also be applied to this case.

²⁴ *Duque v. Calpo*, A.M. No. P-16-3505 [Formerly OCA I.P.I. No. 13-4134-P], January 22, 2019.

²⁵ *Id.*

²⁶ *Dela Rama v. De Leon*, A.M. No. P-14-3240, March 2, 2021.

²⁷ *Id.*

*Incident Report of the Security Division, Office of Administrative Services, on the Alleged Illegal Discharge of a Firearm at the Maintenance Division, Office of Administrative Services*²⁸ likewise held:

x x x x grave misconduct is classified as a grave offense punishable by dismissal from the service for the first offense. The penalty of dismissal from service carries with it the following administrative disabilities: (a) cancellation of civil service eligibility; (b) forfeiture of retirement and other benefits, except accrued leave credits, if any; and (c) perpetual disqualification from re-employment in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution.²⁹ (Underscoring supplied)

Hence, finding the evaluation and recommendation of the OCA to be substantially supported by evidence, law and jurisprudence, the Court resolves to **ADOPT** and **APPROVE** the same, subject to certain modifications.

As respondent has already retired from the service effective May 9, 2014, dismissal from the service is clearly no longer feasible. Thus, in lieu of dismissal, the Court deems it apt, given the gravity of her offense, to declare her retirement and other benefits forfeited, without prejudice to any civil action that may be pursued by the complainant for the restitution of the amount of ₱36,000.00 should the same still not been applied as cash bail bond.

WHEREFORE, in view of the foregoing, the Court finds respondent Marlyn C. Gloria **GUILTY** of **Gross Misconduct**. *Except for her accrued leave credits*, if any, her retirement and other benefits are hereby declared **FORFEITED** as penalty for her offense, in lieu of dismissal which the Court can no longer impose. She is likewise **PERPETUALLY DISQUALIFIED** from re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations.

SO ORDERED.

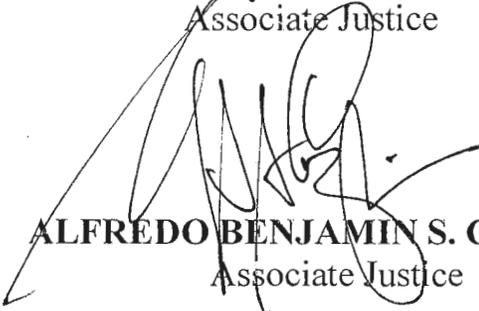

ALEXANDER G. GESMUNDO
Chief Justice

²⁸ A.M. No. 2019-04-SC, June 2, 2020.

²⁹ Id.

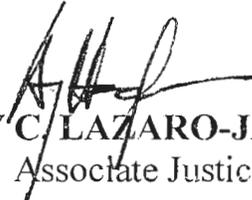

ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARID D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

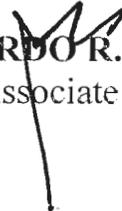

HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

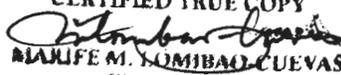

MARIE V. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEPV LOPEZ
Associate Justice

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MARIFE M. LOMIBAO-CUEVAS
Clerk of Court
Supreme Court