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of the victim, except Jose Echaluce, in the sum of ₱12,000.00, the judgment under review is hereby affirmed.

Castro, Fernando, Teehankee, Barredo, Makasiar, Esguerra, Aquino, Concepcion, Jr., and *Martin, J.*, concur.

Antonio, J., is on official trip abroad.

Muñoz Palma, J., did not take part.

FIRST DIVISION

[A.C. No. P-165. August 28, 1975]

DANIEL GUTIERREZ, et al., *complainant, vs.* **VIRGINIA G. FERNANDEZ,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; CONDUCT; ONE WHO OCCUPIES PUBLIC POSITION ESPECIALLY IN AN OFFICE CONNECTED WITH ADMINISTRATION OF JUSTICE MUST AT ALL TIMES BE FREE FROM APPEARANCE OF IMPROPRIETY; CASE AT BAR.— Respondent admits having received the money but denies the accusation that she misappropriated the same for her own personal use and benefit. She puts forward the lame excuse that; she had a personal understanding with the then Clerk of Court that she would borrow the said amount and in fact returned the same after a period of less than three months. The justification proffered is incredible for in the record the fact is established that the only time she told Atty. de Vera of the money given to her by Mr. Gutierrez for delivery to the former was during the confrontation when the matter was referred to Judge Arenas, during which time respondent simply declared that she did receive the money but she forgot to deliver it to Atty. de Vera. Considering that she delivered the money, though

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belatedly, to Atty. de Vera, and that the latter who is supposed to be the aggrieved party never filed a complaint against respondent but on the other hand executed an affidavit admitting the return of the money and further attesting to the efficiency and good conduct of the respondent at the time he was Clerk of Court who had her under his supervision, this Court is not inclined to take drastic disciplinary action against the respondent. But the actuations of respondent were not above suspicion. Nor is her "forgetfulness" an acceptable substitute for the honesty and righteousness expected of an employee of the Court. One who occupies a public position, especially in an office connected with the administration of justice, must at all times be free from the appearance of impropriety. In this respect the respondent was remiss.

D E C I S I O N

ESGUERRA, *J.*:

On November 26, 1971, then City Judge Isidro G. Arenas filed with the City Court of San Carlos City in Pangasinan, formal charges against Virginia G. Fernandez, clerk at said court, on three counts, *viz*:

1. Dishonesty
2. Violation of Section 19, Rule XVIII, subparagraphs, (a), (b), (f), (g) and (h), of the Revised Civil Service Rules, and more specifically:
   a. Falsification or irregularities in the accomplishment or keeping of time records;
   b. Frequent absences or tardiness in reporting for duty, or frequent absences from duty during regular hours;
   f. Discourtesy in the course of official duties;
   g. Neglect of duty;
   h. Refusal to perform official duty or render overtime service.
3. Insubordination and conduct prejudicial to the best interest of the service.

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Going over the record of the case, We noted the following —

1. That there appears to have been no investigation conducted by Judge Arenas;

2. That a move for the suspension of respondent Fernandez is manifested in a letter dated November 25, 1971, of said Judge, addressed to the Secretary of Justice but said letter was never acted upon nor acknowledged. We surmise that said letter never reached the addressee;

3. That the charges involving violation of the Revised Civil Service Rules, specifically sub-paragraphs a, b, f, g, and h, of Section 19, Rule XVIII, for alleged falsification of respondent's daily time record, or unfaithfulness in the recording of hours of work performed were never substantiated as in fact the said daily time records were "verified as to the prescribed office hours" by no less than Judge Arenas himself:

4. That likewise the charges of insubordination, discourtesy and/or conduct prejudicial to the best interest of the service lack sufficient basis to sustain the same and/or for imposing any disciplinary action on respondent.

The same conclusion as to charges 2 and 3 were arrived at by Judge Ricardo P. Resultan, now City Judge of San Carlos City, to whom this case was referred for investigation. Said Judge noted during his investigation the admission of Judge Arenas that the charges hurled against respondent were "the result of his (Judge Arenas) impulses of the moment and that he is willing to let bygones be bygones and forget the whole thing." It was similarly in the course of the investigation that the probable motive for the filing of charges was brought up — that Judge Arenas could have filed the charges due to the refusal of respondent's husband to repair the car of the Judge as Mr. Fernandez (husband) was prohibited by the company where he worked to accept repair of cars not of their brand.

We see, therefore, no reason to dwell further on counts 2 and 3 of the charges but will proceed to discuss at length the issue of "dishonesty"

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It appears on record that on April 2, 1970, complainant Daniel Gutierrez (now deceased as per his death certificate, p. 28 Record) went to the City Court of San Carlos to deliver to Atty. Amado de Vera, then Clerk of Court, the amount of fifty pesos (₱50.00) representing his installment payment for the redemption of his land which he sold with right of repurchase to Atty. de Vera. Since the latter was out of his office at the moment, the money was received by respondent Mrs. Virginia Fernandez who issued a receipt for the same witnessed by one Zenaida Gutierrez, court interpreter. The money never reached the hands of Atty. de Vera and the latter learned about the payment to respondent only when he tried to collect the same from complainant Gutierrez.

Respondent admits having received the money but denies the accusation that she misappropriated the same for her own personal use and benefit. She puts forward the lame excuse that; she had a personal understanding with the then Clerk of Court that she would borrow the said amount and in fact returned the same after a period of less than three months (p. 23, Record). The justification proffered is incredible for in the record the fact is established that the only time she told Atty. de Vera of the money given to her by Mr. Gutierrez for delivery to the former was during the confrontation when the matter was referred to Judge Arenas, during which time respondent simply declared that she did receive the money but she forgot to deliver it to Atty. de Vera.

Considering that she delivered the money, though belatedly, to Atty. de Vera, and that the latter who is supposed to be the aggrieved party never filed a complaint against respondent but on the other hand executed an affidavit admitting the return of the money and further attesting to the efficiency and good conduct of the respondent at the time he was Clerk of Court who had her under his supervision, this Court is not inclined to take drastic disciplinary action against the respondent. But the actuations of respondent were not above suspicion. Nor is her "forgetfulness" an acceptable substitute for the honesty and righteousness expected of an employee of the Court. One who occupies a public position, especially in an office connected with

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the administration of justice, must at all times be free from the appearance of impropriety. In this respect the respondent was remiss.

WHEREFORE, Mrs. Virginia C. Fernandez is reprimanded and admonished to be more prudent and upright in her dealings with people to preserve and maintain the integrity of the courts at all times. A copy of this decision shall be made part of the personal file of the respondent in this Court.

Castro, Teehankee, Makasiar, and *Martin, JJ.*, concur.

Muñoz Palma, J., is on leave.

FIRST DIVISION

[G.R. No. L-20869. August 28, 1975]

ALICIA O. ARCEGA, assisted by her husband RAF. L. ARCEGA, doing business under the firm name of "FAIRMONT ICE CREAM CO.," *petitioner, vs.* **THE COURT OF APPEALS, THE CENTRAL BANK OF THE PHILIPPINES, and THE PHILIPPINE NATIONAL BANK,** *respondents.*

SYLLABUS

POLITICAL LAW; STATE IMMUNITY; CENTAL BANK OF THE PHILIPPINES IS AN ENTITY AUTHORIZED BY ITS CHARTER TO SUE AND BE SUED; CASE AT BAR.— The suability of the Central Bank for the refund of taxes collected by it under Republic Act 601, as amended, was upheld in *Central Azucarera Don Pedro vs. Central Bank of the Philippines,* which ruling merited elaboration in *Olizon vs. Central Bank* as follows: "It is next urged that inasmuch as the amounts here involved have already been turned over to the national treasury the