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**FIRST DIVISION**

[G.R. No. 205548. February 7, 2018]

**DE LA SALLE MONTESSORI INTERNATIONAL OF MALOLOS, INC.,** *petitioner, vs.* **DE LA SALLE BROTHERS, INC., DE LA SALLE UNIVERSITY, INC., LA SALLE ACADEMY, INC., DE LA SALLE-SANTIAGO ZOBEL SCHOOL, INC. (formerly named De La Salle-South Inc.), DE LA SALLE CANLUBANG, INC. (formerly named De La Salle University-Canlubang, Inc.),** *respondents.*

**SYLLABUS**

**1. COMMERCIAL LAW; CORPORATION CODE, SECTION 18, THEREOF; CORPORATE NAMES; PROHIBITION IN SECTION 18 AGAINST THE REGISTRATION OF A CORPORATE NAME WHICH IS "IDENTICAL OR DECEPTIVELY OR CONFUSINGLY SIMILAR" TO THAT OF ANY EXISTING CORPORATION; RATIONALE.—**As early as *Western Equipment and Supply Co. v. Reyes*, the Court declared that a corporation's right to use its corporate and trade name is a property right, a right *in rem*, which it may assert and protect against the world in the same manner as it may protect its tangible property, real or personal, against trespass or conversion. It is regarded, to a certain extent, as a property right and one which cannot be impaired or defeated by subsequent appropriation by another corporation in the same field. x x x Recognizing the intrinsic importance of corporate names, our Corporation Code established a restrictive rule insofar as corporate names are concerned. x x x The policy underlying the prohibition in Section 18 against the registration of a corporate name which is "identical or deceptively or confusingly similar" to that of any existing corporation or which is "patently deceptive" or "patently confusing" or "contrary to existing laws," is the avoidance of fraud upon the public which would have occasion to deal with the entity concerned, the evasion of legal obligations and duties, and the reduction of difficulties of administration and supervision

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over corporations. Indeed, parties organizing a corporation must choose a name at their peril; and the use of a name similar to one adopted by another corporation, whether a business or a non-profit organization, if misleading or likely to injure in the exercise of its corporate functions, regardless of intent, may be prevented by the corporation having a prior right, by a suit for injunction against the new corporation to prevent the use of the name.

2. **ID.; ID.; ID.; ID.; IN DETERMINING THE EXISTENCE OF CONFUSING SIMILARITY IN CORPORATE NAMES, THE TEST IS WHETHER THE SIMILARITY IS SUCH AS TO MISLEAD A PERSON USING ORDINARY CARE AND DISCRIMINATION; APPLICATION IN CASE AT BAR.—**In determining the existence of confusing similarity in corporate names, the test is whether the similarity is such as to mislead a person using ordinary care and discrimination. In so doing, the Court must look to the record as well as the names themselves. x x x Petitioner's argument that it obtained the words "De La Salle" from the French word meaning "classroom," while respondents obtained it from the French priest named Saint Jean Baptiste de La Salle, similarly does not hold water. x x x We affirm that the phrase "De La Salle" is not merely a generic term. Respondents' use of the phrase being suggestive and may properly be regarded as fanciful, arbitrary and whimsical, it is entitled to legal protection. Petitioner's use of the phrase "De La Salle" in its corporate name is patently similar to that of respondents that even with reasonable care and observation, confusion might arise. The Court notes not only the similarity in the parties' names, but also the business they are engaged in. They are all private educational institutions offering pre-elementary, elementary and secondary courses. As aptly observed by the SEC *En Banc*, petitioner's name gives the impression that it is a branch or affiliate of respondents. It is settled that proof of actual confusion need not be shown. It suffices that confusion is probable or likely to occur.

3. **ID.; ID.; SECURITIES AND EXCHANGE COMMISSION (SEC); HAS ABSOLUTE JURISDICTION AND CONTROL OVER ALL CORPORATIONS; IT IS THE SEC'S DUTY TO PREVENT CONFUSION IN THE USE OF CORPORATE NAMES NOT ONLY FOR THE PROTECTION OF THE CORPORATIONS INVOLVED,**

**BUT MORE SO FOR THE PROTECTION OF THE PUBLIC.**—The enforcement of the protection accorded by Section 18 of the Corporation Code to corporate names is lodged exclusively in the SEC. By express mandate, the SEC has absolute jurisdiction, supervision and control over all corporations. It is the SEC's duty to prevent confusion in the use of corporate names not only for the protection of the corporations involved, but more so for the protection of the public. It has authority to de-register at all times, and under all circumstances, corporate names which in its estimation are likely to generate confusion. Clearly, the only determination relevant to this case is that one made by the SEC in the exercise of its express mandate under the law. Time and again, we have held that findings of fact of quasi-judicial agencies, like the SEC, are generally accorded respect and even finality by this Court, if supported by substantial evidence, in recognition of their expertise on the specific matters under their consideration, more so if the same has been upheld by the appellate court, as in this case.

**APPEARANCES OF COUNSEL**

*Dela Rama Dela Rama Dela Rama Law Firm* for petitioner.
*Tolosa Romulo Agabin Flores & Enriquez Law Offices* for respondents.

**D E C I S I O N**

**JARDELEZA, *J.*:**

Petitioner De La Salle Montessori International of Malolos, Inc. filed this petition for review on *certiorari*[1] under Rule 45 of the Rules of Court to challenge the Decision[2] of the Court of Appeals (CA) dated September 27, 2012 in CA-G.R. SP No. 116439 and its Resolution[3] dated January 21, 2013 which

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[1] *Rollo*, pp. 10-29.

[2] *Id*. at 31-47. Penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Ricardo R. Rosario and Mario V. Lopez.

[3] *Id*. at 49-50.

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denied petitioner's motion for reconsideration. The CA affirmed the Decision[4] of the Securities and Exchange Commission (SEC) *En Banc* dated September 30, 2010, which in turn affirmed the Order[5] of the SEC Office of the General Counsel (OGC) dated May 12, 2010 directing petitioner to change or modify its corporate name.

Petitioner reserved with the SEC its corporate name *De La Salle Montessori International Malolos, Inc.* from June 4 to August 3, 2007,[6] after which the SEC indorsed petitioner's articles of incorporation and by-laws to the Department of Education (DepEd) for comments and recommendation.[7] The DepEd returned the indorsement without objections.[8] Consequently, the SEC issued a certificate of incorporation to petitioner.[9]

Afterwards, DepEd Region III, City of San Fernando, Pampanga granted petitioner government recognition for its pre-elementary and elementary courses on June 30, 2008,[10] and for its secondary courses on February 15, 2010.[11]

On January 29, 2010, respondents De La Salle Brothers, Inc., De La Salle University, Inc., La Salle Academy, Inc., De La Salle-Santiago Zobel School, Inc. (formerly De La Salle-South, Inc.), and De La Salle Canlubang, Inc. (formerly De La Salle University-Canlubang, Inc.) filed a petition with the SEC seeking to compel petitioner to change its corporate name. Respondents claim that petitioner's corporate name is misleading or confusingly similar to that which respondents have acquired a

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[4] *Id*. at 99-106.

[5] *Id*. at 59-63.

[6] *Id*. at 52.

[7] *Id*. at 54.

[8] *Id*. at 55.

[9] *Id*. at 56.

[10] *Id*. at 57.

[11] *Id*. at 58.

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prior right to use, and that respondents' consent to use such name was not obtained. According to respondents, petitioner's use of the dominant phrases "La Salle" and "De La Salle" gives an erroneous impression that De La Salle Montessori International of Malolos, Inc. is part of the "La Salle" group, which violates Section 18 of the Corporation Code of the Philippines. Moreover, being the prior registrant, respondents have acquired the use of said phrases as part of their corporate names and have freedom from infringement of the same.[12]

On May 12, 2010, the SEC OGC issued an Order[13] directing petitioner to change or modify its corporate name. It held, among others, that respondents have acquired the right to the exclusive use of the name "La Salle" with freedom from infringement by priority of adoption, as they have all been incorporated using the name ahead of petitioner. Furthermore, the name "La Salle" is not generic in that it does not particularly refer to the basic or inherent nature of the services provided by respondents. Neither is it descriptive in the sense that it does not forthwith and clearly convey an immediate idea of what respondents' services are. In fact, it merely gives a hint, and requires imagination, thought and perception to reach a conclusion as to the nature of such services. Hence, the SEC OGC concluded that respondents' use of the phrase "De La Salle" or "La Salle" is arbitrary, fanciful, whimsical and distinctive, and thus legally protectable. As regards petitioner's argument that its use of the name does not result to confusion, the SEC OGC held otherwise, noting that confusion is probably or likely to occur considering not only the similarity in the parties' names but also the business or industry they are engaged in, which is providing courses of study in pre-elementary, elementary and secondary education.[14] The SEC OGC disagreed with petitioner's argument that the case of *Lyceum of the Philippines, Inc. v. Court of Appeals*[15] (*Lyceum of the Philippines*) applies since

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[12] *Id*. at 32-33.

[13] *Supra* note 5.

[14] *Rollo*, pp. 60-63.

[15] G.R. No. 101897, March 5, 1993, 219 SCRA 610.

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the word "lyceum" is clearly descriptive of the very being and defining purpose of an educational corporation, unlike the term "De La Salle" or "La Salle."[16] Hence, the Court held in that case that the Lyceum of the Philippines, Inc. cannot claim exclusive use of the name "lyceum."

Petitioner filed an appeal before the SEC *En Banc*, which rendered a Decision[17] on September 30, 2010 affirming the Order of the SEC OGC. It held, among others, that the *Lyceum of the Philippines* case does not apply since the word "lyceum" is a generic word that pertains to a category of educational institutions and is widely used around the world. Further, the Lyceum of the Philippines failed to prove that "lyceum" acquired secondary meaning capable of exclusive appropriation. Petitioner also failed to establish that the term "De La Salle" is generic for the principle enunciated in *Lyceum of the Philippines* to apply.[18]

Petitioner consequently filed a petition for review with the CA. On September 27, 2012, the CA rendered its Decision[19] affirming the Order of the SEC OGC and the Decision of the SEC *En Banc in toto*.

Hence, this petition, which raises the lone issue of "[w]hether or not the [CA] acted with grave abuse of discretion amounting to lack or in excess of jurisdiction when it erred in not applying the doctrine laid down in the case of [*Lyceum of the Philippines*], that LYCEUM is not attended with exclusivity."[20]

The Court cannot at the outset fail to note the erroneous wording of the issue. Petitioner alleged grave abuse of discretion while also attributing error of judgment on the part of the CA in not applying a certain doctrine. Certainly, these grounds do not coincide in the same remedy. A petition for review on

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[16] *Rollo*, pp. 60-61.

[17] *Supra* note 4.

[18] *Rollo*, p. 105.

[19] *Supra* note 2.

[20] *Rollo*, p. 18.

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*certiorari* under Rule 45 of the Rules of Court is a separate remedy from a petition for *certiorari* under Rule 65. A petition for review on *certiorari* under Rule 45 brings up for review errors of judgment, while a petition for *certiorari* under Rule 65 covers errors of jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction. Grave abuse of discretion is not an allowable ground under Rule 45.[21] Nonetheless, as the petition argues on the basis of errors of judgment allegedly committed by the CA, the Court will excuse the error in terminology.

The main thrust of the petition is that the CA erred in not applying the ruling in the *Lyceum of the Philippines* case which petitioner argues have "the same facts and events"[22] as in this case.

We DENY the petition and uphold the Decision of the CA.

As early as *Western Equipment and Supply Co. v. Reyes*,[23] the Court declared that a corporation's right to use its corporate and trade name is a property right, a right *in rem*, which it may assert and protect against the world in the same manner as it may protect its tangible property, real or personal, against trespass or conversion.[24] It is regarded, to a certain extent, as a property right and one which cannot be impaired or defeated by subsequent appropriation by another corporation in the same field.[25] Furthermore, in *Philips Export B.V. v. Court of Appeals*,[26] we held:

A name is peculiarly important as necessary to the very existence of a corporation x x x. Its name is one of its attributes, an element

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[21] *Villareal v. Aliga*, G.R. No. 166995, January 13, 2014, 713 SCRA 52, 67. Citation omitted.

[22] *Rollo*, p. 18.

[23] 51 Phil. 115 (1927).

[24] *Id*. at 128.

[25] *Philips Export B.V. v. Court of Appeals*, G.R. No. 96161, February 21, 1992, 206 SCRA 457, 462. Citation omitted.

[26] *Supra*.

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of its existence, and essential to its identity x x x. The general rule as to corporations is that each corporation must have a name by which it is to sue and be sued and do all legal acts. The name of a corporation in this respect designates the corporation in the same manner as the name of an individual designates the person x x x; and the right to use its corporate name is as much a part of the corporate franchise as any other privilege granted x x x.

A corporation acquires its name by choice and need not select a name identical with or similar to one already appropriated by a senior corporation while an individual's name is thrust upon him x x x. A corporation can no more use a corporate name in violation of the rights of others than an individual can use his name legally acquired so as to mislead the public and injure another x x x.[27]

Recognizing the intrinsic importance of corporate names, our Corporation Code established a restrictive rule insofar as corporate names are concerned.[28] Thus, Section 18 thereof provides:

Sec. 18. *Corporate name*. — No corporate name may be allowed by the Securities and Exchange Commission if the proposed name is identical or deceptively or confusingly similar to that of any existing corporation or to any other name already protected by law or is patently deceptive, confusing or contrary to existing laws. When a change in the corporate name is approved, the Commission shall issue an amended certificate of incorporation under the amended name.

The policy underlying the prohibition in Section 18 against the registration of a corporate name which is "identical or deceptively or confusingly similar" to that of any existing corporation or which is "patently deceptive" or "patently confusing" or "contrary to existing laws," is the avoidance of fraud upon the public which would have occasion to deal with the entity concerned, the evasion of legal obligations and duties, and the reduction of difficulties of administration and supervision over corporations.[29]

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[27] *Id*. at 462-463; citations omitted.

[28] *Lyceum of the Philippines, Inc. v. Court of Appeals*, *supra* note 15 at 615.

[29] *Id*. at 615; citation omitted.

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Indeed, parties organizing a corporation must choose a name at their peril; and the use of a name similar to one adopted by another corporation, whether a business or a non-profit organization, if misleading or likely to injure in the exercise of its corporate functions, regardless of intent, may be prevented by the corporation having a prior right, by a suit for injunction against the new corporation to prevent the use of the name.[30]

In *Philips Export B.V. v. Court of Appeals*,[31] the Court held that to fall within the prohibition of Section 18, two requisites must be proven, to wit: (1) that the complainant corporation acquired a prior right over the use of such corporate name; and (2) the proposed name is either: (a) identical, or (b) deceptively or confusingly similar to that of any existing corporation or to any other name already protected by law; or (c) patently deceptive, confusing or contrary to existing law.[32]

With respect to the first requisite, the Court has held that the right to the exclusive use of a corporate name with freedom from infringement by similarity is determined by priority of adoption.[33]

In this case, respondents' corporate names were registered on the following dates: (1) De La Salle Brothers, Inc. on October 9, 1961 under SEC Registration No. 19569; (2) De La Salle University, Inc. on December 19, 1975 under SEC Registration No. 65138; (3) La Salle Academy, Inc. on January 26, 1960 under SEC Registration No. 16293; (4) De La Salle-Santiago Zobel School, Inc. on October 7, 1976 under SEC Registration No. 69997; and (5) De La Salle Canlubang, Inc. on August 5, 1998 under SEC Registration No. A1998-01021.[34]

On the other hand, petitioner was issued a Certificate of Registration only on July 5, 2007 under Company Registration

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[30] *Philips Export B.V. v. Court of Appeals*, *supra* note 25; citation omitted.

[31] *Supra*.

[32] *Id*. at 463.

[33] *Id*.

[34] *Rollo*, p. 41.

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No. CN200710647.[35] It being clear that respondents are the prior registrants, they certainly have acquired the right to use the words "De La Salle" or "La Salle" as part of their corporate names.

The second requisite is also satisfied since there is a confusing similarity between petitioner's and respondents' corporate names. While these corporate names are not identical, it is evident that the phrase "De La Salle" is the dominant phrase used.

Petitioner asserts that it has the right to use the phrase "De La Salle" in its corporate name as respondents did not obtain the right to its exclusive use, nor did the words acquire secondary meaning. It endeavoured to demonstrate that no confusion will arise from its use of the said phrase by stating that its complete name, "De La Salle Montessori International of Malolos, Inc.," contains four other distinctive words that are not found in respondents' corporate names. Moreover, it obtained the words "De La Salle" from the French word meaning "classroom," while respondents obtained it from the French priest named Saint Jean Baptiste de La Salle. Petitioner also compared its logo to that of respondent De La Salle University and argued that they are different. Further, petitioner argued that it does not charge as much fees as respondents, that its clients knew that it is not part of respondents' schools, and that it never misrepresented nor claimed to be an affiliate of respondents. Additionally, it has gained goodwill and a name worthy of trust in its own right.[36]

We are not persuaded.

In determining the existence of confusing similarity in corporate names, the test is whether the similarity is such as to mislead a person using ordinary care and discrimination. In so doing, the Court must look to the record as well as the names themselves.[37]

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[35] *Id*.

[36] *Rollo*, pp. 20-22.

[37] *Philips Export B.V. v. Court of Appeals*, *supra* note 25 at 464; citation omitted.

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Petitioner's assertion that the words "Montessori International of Malolos, Inc." are four distinctive words that are not found in respondents' corporate names so that their corporate name is not identical, confusingly similar, patently deceptive or contrary to existing laws,[38] does not avail. As correctly held by the SEC OGC, all these words, when used with the name "De La Salle," can reasonably mislead a person using ordinary care and discretion into thinking that petitioner is an affiliate or a branch of, or is likewise founded by, any or all of the respondents, thereby causing confusion.[39]

Petitioner's argument that it obtained the words "De La Salle" from the French word meaning "classroom," while respondents obtained it from the French priest named Saint Jean Baptiste de La Salle,[40] similarly does not hold water. We quote with approval the ruling of the SEC *En Banc* on this matter. Thus:

> Generic terms are those which constitute "the common descriptive name of an article or substance," or comprise the "genus of which the particular product is a species," or are "commonly used as the name or description of a kind of goods," or "characters," or "refer to the basic nature of the wares or services provided rather than to the more idiosyncratic characteristics of a particular product," and are not legally protectable. It has been held that if a mark is so commonplace that it cannot be readily distinguished from others, then it is apparent that it cannot identify a particular business; and he who first adopted it cannot be injured by any subsequent appropriation or imitation by others, and the public will not be deceived.
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> Contrary to [petitioner's] claim, the word *salle* only means "room" in French. The word *la*, on the other hand, is a definite article ("the") used to modify *salle*. Thus, since *salle* is nothing more than a room, [respondents'] use of the term is actually suggestive.

A suggestive mark is therefore a word, picture, or other symbol that suggests, but does not directly describe something about the goods or services in connection with which it is used as a mark and

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[38] *Rollo*, p. 20.

[39] *Id*. at 62.

[40] *Id*. at 20.

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gives a hint as to the quality or nature of the product. Suggestive trademarks therefore can be distinctive and are registrable.

The appropriation of the term "*la salle*" to associate the words with the lofty ideals of education and learning is in fact suggestive because roughly translated, the words only mean "the room." Thus, the room could be anything – a room in a house, a room in a building, or a room in an office.

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In fact, the appropriation by [respondents] is fanciful, whimsical and arbitrary because there is no inherent connection between the words *la salle* and education, and it is through [respondents'] painstaking efforts that the term has become associated with one of the top educational institutions in the country. Even assuming *arguendo* that *la salle* means "classroom" in French, imagination is required in order to associate the term with an educational institution and its particular brand of service.[41]

We affirm that the phrase "De La Salle" is not merely a generic term. Respondents' use of the phrase being suggestive and may properly be regarded as fanciful, arbitrary and whimsical, it is entitled to legal protection.[42] Petitioner's use of the phrase "De La Salle" in its corporate name is patently similar to that of respondents that even with reasonable care and observation, confusion might arise. The Court notes not only the similarity in the parties' names, but also the business they are engaged in. They are all private educational institutions offering pre-elementary, elementary and secondary courses.[43] As aptly observed by the SEC *En Banc*, petitioner's name gives the impression that it is a branch or affiliate of respondents.[44] It is

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[41] *Id*. at 104-105, citing *Societe Des Produits Nestlé, S.A. v. Court of Appeals*, G.R. No. 112012, April 4, 2001, 356 SCRA 207; and *Philippine Refining Co., Inc. v. Ng Sam*, G.R. No. L-26676, July 30, 1982, 115 SCRA 472. Italics in the original.

[42] *Ang v. Teodoro*, 74 Phil. 50 (1942); See also *Societe Des Produits Nestle, S.A. v. Court of Appeals*, *supra* note 41.

[43] *Rollo*, pp. 62-63.

[44] *Id*. at 104.

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settled that proof of actual confusion need not be shown. It suffices that confusion is probable or likely to occur.[45]

Finally, the Court's ruling in *Lyceum of the Philippines*[46] does not apply.

In that case, the Lyceum of the Philippines, Inc., an educational institution registered with the SEC, commenced proceedings before the SEC to compel therein private respondents who were all educational institutions, to delete the word "Lyceum" from their corporate names and permanently enjoin them from using the word as part of their respective names.

The Court there held that the word "Lyceum" today generally refers to a school or institution of learning. It is as generic in character as the word "university." Since "Lyceum" denotes a school or institution of learning, it is not unnatural to use this word to designate an entity which is organized and operating as an educational institution. Moreover, the Lyceum of the Philippines, Inc.'s use of the word "Lyceum" for a long period of time did not amount to mean that the word had acquired secondary meaning in its favor because it failed to prove that it had been using the word all by itself to the exclusion of others. More so, there was no evidence presented to prove that the word has been so identified with the Lyceum of the Philippines, Inc. as an educational institution that confusion will surely arise if the same word were to be used by other educational institutions.[47]

Here, the phrase "De La Salle" is not generic in relation to respondents. It is not descriptive of respondent's business as institutes of learning, unlike the meaning ascribed to "Lyceum." Moreover, respondent De La Salle Brothers, Inc. was registered in 1961 and the De La Salle group had been using the name decades before petitioner's corporate registration. In contrast, there was no evidence of the Lyceum of the Philippines, Inc.'s

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[45] *Philips Export B.V. v. Court of Appeals*, *supra* note 25 at 464.

[46] *Supra* note 15.

[47] *Id*. at 616-619.

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exclusive use of the word "Lyceum," as in fact another educational institution had used the word 17 years before the former registered its corporate name with the SEC. Also, at least nine other educational institutions included the word in their corporate names. There is thus no similarity between the *Lyceum of the Philippines* case and this case that would call for a similar ruling.

The enforcement of the protection accorded by Section 18 of the Corporation Code to corporate names is lodged exclusively in the SEC. By express mandate, the SEC has absolute jurisdiction, supervision and control over all corporations. It is the SEC's duty to prevent confusion in the use of corporate names not only for the protection of the corporations involved, but more so for the protection of the public. It has authority to de-register at all times, and under all circumstances, corporate names which in its estimation are likely to generate confusion.[48]

Clearly, the only determination relevant to this case is that one made by the SEC in the exercise of its express mandate under the law.[49]

Time and again, we have held that findings of fact of quasi-judicial agencies, like the SEC, are generally accorded respect and even finality by this Court, if supported by substantial evidence, in recognition of their expertise on the specific matters under their consideration, more so if the same has been upheld by the appellate court, as in this case.[50]

**WHEREFORE,** the Petition is **DENIED**. The assailed Decision of the CA dated September 27, 2012 is **AFFIRMED**.

**SO ORDERED.**

*Sereno, C.J. (Chairperson), Leonardo-de Castro, del Castillo,* and *Tijam, JJ.,* concur.

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[48] *GSIS Family Bank-Thrift Bank [formerly Comsavings Bank, Inc.] v. BPI Family Bank*, G.R. No. 175278, September 23, 2015, 771 SCRA 284, 301-302.

[49] *Id*. at 302-303.

[50] *Id*. at 298.

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**THIRD DIVISION**

[G.R. Nos. 208481-82. February 7, 2018]

**OFFICE OF THE OMBUDSMAN, REPRESENTED BY OMBUDSMAN CONCHITA CARPIO MORALES,** *petitioner, vs.* **MARIA ROWENA REGALADO,** *respondent.*

**SYLLABUS**

**1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; ONE CAN CONTINUE TO HOLD PUBLIC OFFICE ONLY FOR AS LONG AS HE OR SHE PROVES WORTHY OF PUBLIC TRUST.—** The 1987 Constitution spells out the basic ethos underlying public office: Section 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives. The fundamental notion that one's tenure in government springs exclusively from the trust reposed by the public means that continuance in office is contingent upon the extent to which one is able to maintain that trust. x x x No one has a vested right to public office. One can continue to hold public office only for as long as he or she proves worthy of public trust.

**2. ID.; ID.; ID.; CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES (REPUBLIC ACT NO. 6713); THE LAW EXPLICITLY STATES THAT THE DISMISSAL FROM SERVICE MAY BE WARRANTED THROUGH AN ADMINISTRATIVE PROCEEDING, EVEN IF THE ERRING OFFICER IS NOT SUBJECTED TO CRIMINAL PROSECUTION.—** Apart from the general treatment of misconduct with "any of the additional elements of corruption, willful intent to violate the law or disregard of established rules," Republic Act No. 6713 specifically identifies as unlawful the solicitation or acceptance of gifts "in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of

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their office." x x x Section 7(d) of Republic Act No. 6713, which took effect in 1989, is in addition to Section 3(c) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act enacted in 1960. x x x Republic Act No. 3019 punishes violations of its Section 3 with imprisonment, perpetual disqualification from public office, and confiscation or forfeiture of proceeds: x x x For its part, Republic Act No. 6713 penalizes violations of its Section 7 with imprisonment and/or a fine, as well as disqualification to hold public office: x x x Section 11(b) of Republic Act No. 6713 explicitly states that dismissal from the service may be warranted through an administrative proceeding, even if the erring officer is not subjected to criminal prosecution. This is in keeping with the three (3)-fold liability rule in the law on public officers, "which states that the wrongful acts or omissions of a public officer may give rise to civil, criminal and administrative liability. An action for each can proceed independently of the others." x x x It is without question that respondent violated Section 7(d) of Republic Act No. 6713.

3. **ID.; ID.; ID.; RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE (2017 RACCS); THE RULES CONSIDER GRAVE MISCONDUCT AS A GRAVE OFFENSE WARRANTING ULTIMATE PENALTY OF DISMISSAL FROM SERVICE WITH ACCESSORY PENALTIES.—** Consistent with the dignity of public office, our civil service system maintains that misconduct tainted with "any of the additional elements of corruption, willful intent to violate the law or disregard of established rules" is grave. This gravity means that misconduct was committed with such depravity that it justifies not only putting an end to an individual's current engagement as a public servant, but also the foreclosure of any further opportunity at occupying public office. Accordingly, the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS) consider grave misconduct as a grave offense warranting the ultimate penalty of dismissal from service with the accessory penalties of cancellation of eligibility, perpetual disqualification from public office, bar from taking civil service examinations, and forfeiture of retirement benefits.

4. **ID.; ID.; ID.; ID.; THE RULES UNQUALIFIEDLY STATES THAT DISMISSAL SHALL BE METED EVEN IF IT IS ONLY THE FIRST OFFENSE; CASE AT BAR.—** In *Medina*

> *v. Commission on Audit,* this Court emphasized that "a grave offense cannot be mitigated by the fact that the accused is a first-time offender or by the length of service of the accused." x x x The fact that an offender was caught for the first time does not, in any way, abate the gravity of what he or she actually committed. Grave misconduct is not a question of frequency, but, as its own name suggests, of gravity or weight. One who commits grave misconduct is one who, by the mere fact of that misconduct, has proven himself or herself unworthy of the continuing confidence of the public. By his or her very commission of that grave offense, the offender forfeits any right to hold public office. Underscoring the severity of grave misconduct and other offenses meriting dismissal, the 2017 RACCS now specifically state that no mitigating circumstances, of any sort, may be appreciated in cases involving an offense punishable by dismissal from service.

**APPEARANCES OF COUNSEL**

*Office of the Solicitor General* for petitioner.

*Europa Dacanay Cubelo Europa & Flores Law Offices* for respondent.

**D E C I S I O N**

**LEONEN, *J.*:**

> "Yes, my dear, that's the system ng government . . . Ganito ang system, ano ako magmamalinis?"[1]
>
> - Maria Rowena Regalado
> Immigration Officer

Public officers who, in the course of performing their regulatory functions, brazenly extort money, incessantly haggle, bribe, knowingly use falsified copies of official issuances to justify extortion, threaten to withhold benefits and services, deny possession of official receipts to payors, profess undue

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[1] *Rollo*, p. 31.

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influence over their colleagues, and unabashedly exclaim that extortion and bribery are standards in the government are guilty of grave misconduct. Their nefarious acts are an utter disservice to the public, and undermine the entire civil service, thereby warranting the termination of their stint in public service. The consummate atrocity of their ways should not be mollified by the convenient excuses of being caught only for the first time, and of solicited statements of support from supposedly satisfied clients that speak of their purported good performance.

This resolves a Petition for Review on Certiorari[2] under Rule 45 of the 1997 Rules of Civil Procedure praying that the assailed July 19, 2013 Amended Decision[3] of the Court of Appeals in CA-G.R. SP Nos. 120843 and 121748 be reversed and set aside and that the Court of Appeals January 7, 2013 original Decision[4] be reinstated.

The Court of Appeals January 7, 2013 original Decision sustained the November 5, 2008 Decision[5] of the Office of the Ombudsman for Mindanao, finding respondent Maria Rowena Regalado (Regalado) guilty of Grave Misconduct and violation of Section 7(d) of Republic Act No. 6713,[6] otherwise known

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[2] *Id*. at 10-26, Petition for Review on *Certiorari*.

[3] *Id*. at 28-39. The Amended Decision was penned by Associate Justice Priscilla J. Baltazar-Padilla and concurred in by Associate Justices Fernanda Lampas Peralta and Agnes Reyes-Carpio of the Former Fourteenth Division, Court of Appeals, Manila.

[4] *Id*. at 41-62. The Decision was penned by Associate Justice Priscilla J. Baltazar-Padilla and concurred in by Associate Justices Fernanda Lampas Peralta and Agnes Reyes-Carpio of the Former Fourteenth Division, Court of Appeals, Manila.

[5] No copy was annexed to the Petition.

[6] Rep. Act No. 6713 (1989), Sec. 7(d), Code of Conduct and Ethical Standards for Public Officials and Employees.
Section 7. Prohibited Acts and Transactions. — In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:
. . . .

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as the Code of Conduct and Ethical Standards for Public Officers and Employees. She was meted the penalty of dismissal from the service, along with the accessory penalties of cancellation of civil service eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in the government service.[7]

The assailed Court of Appeals July 19, 2013 Amended Decision maintained that Regalado was liable for Grave Misconduct but reduced her penalty to suspension from office without pay for one (1) year. It further ordered her reinstatement to her former position, her penalty having already been served.[8]

The facts are settled.

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(d) Solicitation or acceptance of gifts. — Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.

As to gifts or grants from foreign governments, the Congress consents to:

(i) The acceptance and retention by a public official or employee of a gift of nominal value tendered and received as a souvenir or mark of courtesy;

(ii) The acceptance by a public official or employee of a gift in the nature of a scholarship or fellowship grant or medical treatment; or

(iii) The acceptance by a public official or employee of travel grants or expenses for travel taking place entirely outside the Philippine (such as allowances, transportation, food, and lodging) of more than nominal value if such acceptance is appropriate or consistent with the interests of the Philippines, and permitted by the head of office, branch or agency to which he belongs.

The Ombudsman shall prescribe such regulations as may be necessary to carry out the purpose of this subsection, including pertinent reporting and disclosure requirements.

Nothing in this Act shall be construed to restrict or prohibit any educational, scientific or cultural exchange programs subject to national security requirements.

[7] *Rollo*, p. 48.

[8] *Id*. at 39.

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Herein respondent Regalado was a public employee, holding the position Immigration Officer I with the Bureau of Immigration.[9]

In October 2006, Carmelita F. Doromal (Doromal), the owner and administrator of St. Martha's Day Care Center and Tutorial Center, Inc. (St. Martha's), went to the Davao Office of the Bureau of Immigration to inquire about its letter requiring her school to obtain an accreditation to admit foreign students. There, she met Regalado, who told her that she needed to pay ₱50,000.00 as "processing fee" for the accreditation. Doromal commented that the amount was prohibitive. Regalado responded that she could reduce the amount.[10] Citing a copy of Office Memorandum Order No. RBR 00-57 of the Bureau of Immigration, Regalado claimed that "the head office of the Bureau of Immigration, through the Immigration Regulation Division, ha[d] the authority to allow the accreditation at a lower amount, depending on her recommendation."[11]

In January 2007, St. Martha's Assistant Headmaster, Syren T. Diaz (Diaz) submitted to the Bureau of Immigration the necessary papers for the school's accreditation.[12]

On April 7, 2007, Regalado called Doromal on the latter's mobile phone asking if the school was "ready." Doromal responded by saying that the school was ready for inspection, but not to pay ₱50,000.00 as accreditation fee. Regalado persuaded Doromal to pay ₱50,000.00 directly to her by claiming that the cost of the inspection could soar as high as ₱100,000.00 if it were to be done instead by officers coming from the Bureau of Immigration's Manila Office, as Doromal would still have to spend for the inspectors' plane fares, billeting at the Marco Polo Hotel, and a special dinner on top of the ₱50,000.00

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[9] *Id*. at 15.

[10] *Id*. at 43.

[11] *Id*. at 59.

[12] *Id*. at 43.

"honorarium."[13] Regalado insisted on how paying just ₱50,000.00 directly to her would benefit Doromal. She explained, however, that if Doromal were to tender the ₱50,000.00, only ₱10,000.00 would be covered by a receipt.[14]

Doromal later sent Regalado a text message, saying that she could not pay ₱50,000.00. Regalado replied that it if she were to decline paying ₱50,000.00, she would have to go through the entire accreditation process all over again. Doromal replied that she did not mind re-applying, as long as she would be relieved of having to pay ₱50,000.00.[15]

On April 10, 2007, Regalado sent Doromal a text message asking to meet "so that the amount being asked may be reduced."[16]

On May 3, 2007, Regalado sent Doromal another text message encouraging her to pursue the accreditation as Regalado allegedly managed to reduce the accreditation fee to ₱10,000.00.[17]

On May 21, 2007, Regalado came to inspect St. Martha's. When Regalado had finished, Doromal asked if it was possible to pay the ₱10,000.00 by check but Regalado insisted on payment by cash. She also reminded Doromal that she would also have to pay "honorarium." Doromal inquired how much it was. Regalado responded, "*[I]kaw na bahala, ayaw ko na talaga i-mention yan baka umatras ka pa.*"[18] Regalado further instructed Doromal to come to her office on May 23, 2007 with the cash enclosed in an unmarked brown envelope and to say that it contained "additional documents," if anyone were to inquire about its contents.[19]

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[13] *Id*.

[14] *Id*.

[15] *Id*. at 44.

[16] *Id*.

[17] *Id*.

[18] *Id*.

[19] *Id*.

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Doromal could not personally come to Regalado's office on May 23, 2007 as she had to leave for the United States, so Diaz went in Doromal's stead. She was accompanied by Mae Kristen Tautho (Tautho), a Kindergarten teacher at St. Martha's. Diaz carried with her an unmarked brown envelope containing the white envelope with ₱1,500.00 inside as "honorarium."[20]

Upon finding that the contents were only ₱1,500.00, Regalado blurted, "O my God."[21] Diaz asked, "*Bakit po?*"[22] Regalado exclaimed, "You want me to give this amount to my boss?" Diaz asked how much the honorarium should be. Regalado replied that it should be at least ₱30,000.00. Diaz asked what the ₱30,000.00 was for. Regalado retorted, "It will go to my boss along with your accreditation papers and endorsement letter . . . *Ganyan ang system dito pag magprocess, actually na lower na nga ang amount because the inspectors are not from Manila, you will not book them at the Marco Polo Hotel, you will no longer entertain them, it's cheaper*."[23] Diaz asked, "Is this under the table ma'am?"[24] Regalado brazenly replied, "Yes, my dear, that's the system ng government."[25] Diaz lamented, "So sad to know that."[26] Regalado scoffed, "*Ganito ang system, ano ako magmamalinis?*"[27] Diaz and Tautho underscored that the transaction was illegal and asked what would happen if someone were to pry around. Regalado assured them, "*I'll be backing you up, walang gugulo sa inyo*."[28]

Regalado instructed Diaz and Tautho to return the following day with ₱30,000.00. She then directed them to pay the

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[20] *Id*.

[21] *Id*. at 46.

[22] *Id*.

[23] *Id*.

[24] *Id*.

[25] *Id*.

[26] *Id*.

[27] *Id*.

[28] *Id*.

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accreditation fee of ₱10,000.00 with the cashier. After payment, Regalado demanded that they surrender to her the official receipt. Before leaving, Regalado asked Diaz about her companion. Upon finding out that Tautho was a teacher at St. Martha's, Regalado remarked, "*Ah at least safe tayo, mahirap na baka magsumbong*."[29]

On May 24, 2007, Regalado called Diaz, asking if she had cleared with Doromal the payment of ₱30,000.00 and emphasized that it was for her boss.[30]

On May 29, 2007, Doromal, Diaz, and Tautho filed with the Office of the Ombudsman for Mindanao a Complaint against Regalado.[31] Thus, an administrative case was filed for Grave Misconduct, penalized by Rule IV, Section 52(A)(3) of Civil Service Commission Resolution No. 991936,[32] and for violation of Section 7(d) of Republic Act No. 6713.[33]

In her defense, Regalado denied ever extorting money from Doromal, Diaz, and Tautho, claiming they were merely in league with "people who ha[d] a grudge against her."[34] She admitted asking for ₱50,000.00 but cited that per Office Memorandum Order No. RBR 00-57, this was the amount properly due from a school accredited to admit foreign students. She explained that, indeed, the amount due may be lowered and surmised that

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[29] *Id*.

[30] *Id*. at 46 and 45.

[31] *Id*. at 45.

[32] CSC Res. No. 991936 (1999), Sec. 52(A)(3) Uniform Rules on Administrative Cases in the Civil Service.

Section 52. *Classification of Offenses*. — Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:

. . . . . .

3. Grave Misconduct
1st offense — Dismissal

[33] Code of Conduct and Ethical Standards for Public Officials and Employees.

[34] *Rollo*, p. 45.

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her explanations made in good faith to Doromal were misconstrued.[35] She claimed that she only really wanted to help St. Martha's.[36]

In its November 5, 2008 Decision,[37] the Office of the Ombudsman for Mindanao found Regalado guilty, thus:

> WHEREFORE, foregoing premises considered, this Office finds substantial evidence to hold MARIA ROWENA REGALADO y PLURAL guilty of Grave Misconduct and violation of Sec. 7(d) of R.A. 6713, any of which merits her removal from the government service. She is thus meted with the supreme penalty of DISMISSAL FROM THE SERVICE, which shall carry with it the accessory penalties of CANCELLATION OF ELIGIBILITY, FORFEITURE OF RETIREMENT BENEFITS, and PERPETUAL DISQUALIFICATION [FROM] REEMPLOYMENT IN THE GOVERNMENT SERVICE.[38]

On June 24, 2011, Acting Ombudsman Orlando Casimiro approved the Office of the Ombudsman for Mindanao Decision.[39]

In its September 8, 2011 Order,[40] the Office of the Ombudsman denied Regalado's Motion for Reconsideration.[41]

In its January 7, 2013 Decision,[42] the Court of Appeals affirmed in *toto* the Office of the Ombudsman's ruling.

The Court of Appeals explained that in the first place, St. Martha's did not even have to seek accreditation. The supposed basis for accreditation, Office Memorandum Order No. RBR 00-57,[43] apply only to the accreditation of Higher Education

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[35] *Id*.

[36] *Id*. at 47.

[37] No copy annexed to the Petition.

[38] *Rollo*, p. 48.

[39] *Id*.

[40] No copy annexed to the Petition.

[41] *Rollo*, p. 48.

[42] *Id*. at 41-62.

[43] BI Office Memo. Order No. RBR 00-57 (2000).

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Institutions and not to Day Care Centers like St. Martha's.[44] The Court of Appeals added that this Memorandum required the payment of ₱10,000.00 only, not ₱50,000.00, as accreditation fee.[45] It also explained that Regalado knowingly used a falsified copy of this Memorandum, one which did not bear the signature of then Bureau of Immigration Commissioner Rufus Rodriguez, and which erroneously indicated ₱50,000.00 as the accreditation fee.[46]

The dispositive portion of the Court of Appeals January 7, 2013 Decision read:

> WHEREFORE, in view of the foregoing, the Petition in CA-G.R. SP No. 120843 is DISMISSED for being moot and academic. The Petition in CA-G.R. SP No. 121748 is DENIED for lack of merit. The Decision dated 05 November 2008 and Order dated 8 September 2011 of the Office of the Ombudsman are hereby AFFIRMED in toto.
>
> SO ORDERED.[47]

Acting on Regalado's Motion for Reconsideration, the Court of Appeals issued its Amended Decision dated July 19, 2013,[48] which maintained Regalado's liability. However, it noted that it had failed to consider the affidavits executed by representatives of other schools previously assisted by Regalado, expressing their satisfaction with her service.[49] It added that "this is the very first time that [Regalado] was found to be administratively liable,"[50] and that she had previously been credited with "good work performance."[51] On account of the mitigating circumstances

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[44] *Id*. at 57.

[45] *Id*. at 56.

[46] *Id*. at 56-57.

[47] *Id*. at 61.

[48] *Id*. at 28-39.

[49] *Id*. at 37.

[50] *Id*. at 38.

[51] *Id*.

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it noted, the Court of Appeals modified Regalado's penalty to only one (1)-year suspension without pay.[52] It added that Regalado had effectively served the entire duration of her suspension, thereby entitling her to reinstatement.[53]

The dispositive portion of the Court of Appeals July 19, 2013 Amended Decision read:

> WHEREFORE, the foregoing considered, WE hereby AMEND the DECISION dated 07 January 2007 by reducing the penalty imposed on Maria Rowena Regalado from DISMISSAL from the service to SUSPENSION FROM OFFICE WITHOUT PAY FOR ONE (1) YEAR, which is deemed to have already been served by her.
>
> Accordingly, WE hereby order petitioner's REINSTAMENT to her former position without loss of seniority and payment of her back wages and such other emoluments that she did not receive by reason of her dismissal from the service.
>
> SO ORDERED.[54]

Asserting that the reduction of Regalado's penalty to one (1)-year suspension was unwarranted, the Office of the Ombudsman filed the present Petition[55] seeking the reinstatement of the Court of Appeals January 7, 2013 original Decision.

The acts attributed to Regalado are no longer in dispute. At no point did the Court of Appeals July 19, 2013 Amended Decision disavow the truth of the factual findings relating to them.

Further, how Regalado's acts amount to Grave Misconduct and a violation of Section 7(d) of Republic Act No. 6713 is no longer in issue. The rulings rendered by the Office of the Ombudsman for Mindanao, the Office of the Ombudsman, and the Court of Appeals in its January 7, 2013 original Decision are uniform in these findings.

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[52] *Id*. at 39.

[53] *Id*.

[54] *Id*. at 39.

[55] *Id*. at 10-26.

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The Office of the Ombudsman for Mindanao November 5, 2008 Decision explicitly stated that Regalado was "guilty of Grave Misconduct and violation of Sec. 7(d) of R.A. 6713."[56] The Court of Appeals January 7, 2013 original Decision also stated that "[t]he Decision dated 05 November 2008 and Order dated 8 September 2011 of the Office of the Ombudsman are hereby AFFIRMED in toto."[57] At no point did the Court of Appeals July 19, 2013 Amended Decision dispute the prior conclusions on the exact nature of Regalado's liability. In accordance with its dispositive portion, all it did was to "AMEND the DECISION dated 07 January 2007 by reducing the penalty imposed."[58]

Even Regalado herself opted to no longer appeal the Court of Appeals July 19, 2013 Amended Decision. Instead of Regalado, it was the Office of the Ombudsman which filed the present appeal. This appeal specifically prayed that "[j]udgment be rendered REVERSING and SETTING ASIDE the Amended Decision of the Court of Appeals dated 19 July 2013 and REINSTATING the Decision of the Court of Appeals dated 07 January 2013."[59]

Accordingly, all that remains in issue is whether or not the Court of Appeals erred in meting upon respondent Maria Rowena Regalado the reduced penalty of one (1)-year suspension without pay, in view of the mitigating circumstances it appreciated in respondent's favor.

The confluence and totality of respondent's actions are so grave that the Court of Appeals was in serious error in setting aside the original penalty of dismissal from service.

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[56] *Id*. at 48.

[57] *Id*. at 61.

[58] *Id*. at 39.

[59] *Id*. at 22.

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**I**

The 1987 Constitution spells out the basic ethos underlying public office:

> Section 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.[60]

The fundamental notion that one's tenure in government springs exclusively from the trust reposed by the public means that continuance in office is contingent upon the extent to which one is able to maintain that trust. As Chief Justice Enrique Fernando eloquently wrote in his concurrence in *Pineda v. Claudio*:[61]

> [W]e must keep in mind that the Article on the Civil Service, like other provisions of the Constitution, was inserted primarily to assure a government, both efficient and adequate to fulfill the ends for which it has been established. That is a truism. It is not subject to dispute. It is in that sense that a public office is considered a public trust.
>
> Everyone in the public service cannot and must not lose sight of that fact. While his right as an individual although employed by the government is not to be arbitrarily disregarded, he cannot and should not remain unaware that the only justification for his continuance in such service is his ability to contribute to the public welfare.[62] (Citation omitted)

No one has a vested right to public office. One can continue to hold public office only for as long as he or she proves worthy of public trust.

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[60] CONST., Art. XI, Sec. 1.

[61] 138 Phil. 37 (1969) [Per *J.* Castro, *En Banc*].

[62] *J.* Fernando, Concurring Opinion in *Pineda v. Claudio,*138 Phil. 37, 58 (1969) [Per *J.* Castro, *En Banc*].

## II

Consistent with the dignity of public office, our civil service system maintains that misconduct tainted with "any of the additional elements of corruption, willful intent to violate the law or disregard of established rules"[63] is grave. This gravity means that misconduct was committed with such depravity that it justifies not only putting an end to an individual's current engagement as a public servant, but also the foreclosure of any further opportunity at occupying public office.

Accordingly, the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS)[64] consider grave misconduct as a grave offense warranting the ultimate penalty of dismissal from service with the accessory penalties of cancellation of eligibility, perpetual disqualification from public office, bar from taking civil service examinations, and forfeiture of retirement benefits. Rule 10, Sections 50 and 57 of the 2017 RACCS provide:

> Section 50. Classification of Offenses. — Administrative offenses with corresponding penalties are classified into grave, less grave and light, depending on their gravity or depravity and effects on the government service.
>
> A. The following grave offenses shall be punishable by dismissal from the service:
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> . . . . . .

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[63] *Office of the Ombudsman v. Faller*, G.R. No. 208976 (Resolution), February 22, 2016 [Per *J.* Leonen, Second Division] citing *Atty. Valera v. Office of the Ombudsman*, *et al.,* 570 Phil. 368, 385 (2008) [Per *C.J.* Puno, First Division].

Misconduct is the "transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or disregard of established rules, which must be proved by substantial evidence."

[64] CSC Res. No. 1701077 (2017), 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS).

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3. Grave Misconduct;

. . . . . .

Section 57. Administrative Disabilities Inherent in Certain Penalties. — The following rules shall govern in the imposition of accessory penalties:

a. The penalty of dismissal shall carry with it cancellation of eligibility, perpetual disqualification from holding public office, bar from taking civil service examinations, and forfeiture of retirement benefits.

Terminal leave benefits and personal contributions to Government Service Insurance System (GSIS), Retirement and Benefits Administration Service (RBAS) or other equivalent retirement benefits system shall not be subject to forfeiture.[65]

In like manner, Civil Service Commission Resolution No. 991936, the Uniform Rules on Administrative Cases in the Civil Service, which were in effect during respondent's commission of the acts charged against her, provided:

RULE IV

Penalties

Section 52. Classification of Offenses. — Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:

. . . . . .

3. Grave Misconduct
1st offense — Dismissal

. . . . . .

Section 58. Administrative Disabilities Inherent in Certain Penalties. —

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[65] CSC Res. No. 1701077 (2017), Rule 10, Secs. 50 and 57.

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a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.[66]

**III**

Apart from the general treatment of misconduct with "any of the additional elements of corruption, willful intent to violate the law or disregard of established rules,"[67] Republic Act No. 6713 specifically identifies as unlawful the solicitation or acceptance of gifts "in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office."[68]

Section 7(d) of Republic Act No. 6713 provides:

Section 7. *Prohibited Acts and Transactions*. — In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

. . . . . .

(d) Solicitation or acceptance of gifts. — Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.

As to gifts or grants from foreign governments, the Congress consents to:

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[66] CSC Res. No. 991936 (1999), Secs. 52(A)(3) and 58.

[67] *Office of the Ombudsman v. Faller*, G.R. No. 208976 (Resolution), February 22, 2016. [Per *J.* Leonen, Second Division] citing *Atty. Valera v. Office of the Ombudsman, et al.,* 570 Phil. 368, 385 (2008) [Per *C.J.* Puno, First Division].

[68] Rep. Act No. 6713 (1989), Sec. 7(d).

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(i) The acceptance and retention by a public official or employee of a gift of nominal value tendered and received as a souvenir or mark of courtesy;

(ii) The acceptance by a public official or employee of a gift in the nature of a scholarship or fellowship grant or medical treatment; or

(iii) The acceptance by a public official or employee of travel grants or expenses for travel taking place entirely outside the Philippine (such as allowances, transportation, food, and lodging) of more than nominal value if such acceptance is appropriate or consistent with the interests of the Philippines, and permitted by the head of office, branch or agency to which he belongs.

The Ombudsman shall prescribe such regulations as may be necessary to carry out the purpose of this subsection, including pertinent reporting and disclosure requirements.

Nothing in this Act shall be construed to restrict or prohibit any educational, scientific or cultural exchange programs subject to national security requirements.[69]

Section 7(d) of Republic Act No. 6713, which took effect in 1989, is in addition to Section 3(c) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act enacted in 1960. Section 3(c) provides:

Section 3. *Corrupt practices of public officers*. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

. . . . . .

(c) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or license, in

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[69] *Id*.

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consideration for the help given or to be given, without prejudice to Section thirteen of this Act.[70]

Republic Act No. 3019 punishes violations of its Section 3 with imprisonment, perpetual disqualification from public office, and confiscation or forfeiture of proceeds:

Section 9. *Penalties for violations*. — (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than one year nor more than ten years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

Any complaining party at whose complaint the criminal prosecution was initiated shall, in case of conviction of the accused, be entitled to recover in the criminal action with priority over the forfeiture in favor of the Government, the amount of money or the thing he may have given to the accused, or the value of such thing.[71]

For its part, Republic Act No. 6713 penalizes violations of its Section 7 with imprisonment and/or a fine, as well as disqualification to hold public office:

Section 11. Penalties. — (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (₱5,000), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.

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[70] Rep. Act No. 3019 (1960), Sec. 3(c).

[71] Rep. Act No. 3019 (1960), Sec. 9(a).

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(b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him.[72]

Section 11(b) of Republic Act No. 6713 explicitly states that dismissal from the service may be warranted through an administrative proceeding, even if the erring officer is not subjected to criminal prosecution. This is in keeping with the three (3)-fold liability rule in the law on public officers, "which states that the wrongful acts or omissions of a public officer may give rise to civil, criminal and administrative liability. An action for each can proceed independently of the others."[73]

**IV**

It is without question that respondent violated Section 7(d) of Republic Act No. 6713. The Court of Appeals summarized her "modus operandi," as follows:

[T]he *modus operandi* of [Regalado] is to present to applicants for accreditation a fake copy of Office Memorandum Order No. RBR 00-57 providing an accreditation fee of ₱50,000.00 to be able to charge the said amount, when the actual fee required is only ₱10,000.00. If the applicant cannot afford to pay such a high amount, [Regalado], as she did in the present case, will tell the applicant that through her efforts, she will be able to reduce the accreditation fee to ₱10,000.00. However, in return, the applicant will have to give an honorarium to [Regalado's] boss amounting to at least ₱30,000.00.[74]

The matter is not a question of whether or not, as respondent mentions in her Comment to the present Petition, she actually received or profited from the solicitation of any amount from the complainants, or that she solicited even after she had

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[72] Rep. Act No. 6713 (1989), Sec. 11(a)(b).

[73] *Domingo v. Rayala*, 569 Phil. 423, 447 (2008), citing *Office of the Court Administrator v. Enriquez*, Adm. Matter No. P-89-290, 218 SCRA 1 (1993) [Per *J.* Nachura, Third Division].

[74] *Rollo*, pp. 55-56.

completed the inspection of St. Martha's.[75] Section 7(d) of Republic Act No. 6713 penalizes both solicitation and acceptance. This is similar to how Section 3(c) of Republic Act No. 3019 penalizes both the requesting and receiving of pecuniary or material benefits. In Section 7(d), the prior or subsequent performance of official acts is also immaterial.

It is equally without question that respondent engaged in misconduct that was tainted with corruption and with willful intent to violate the law and to disregard established rules. The act of requesting pecuniary or material benefits is specifically listed by Section 3(c) of Republic Act No. 3019 as a "corrupt practice." Further, there is certainly nothing in the records to suggest that respondent's actions were not products of her own volition.

It is clear, then, that respondent's actions deserve the supreme penalty of dismissal from service. The Court of Appeals, however, held that certain circumstances warrant the reduction of respondent's penalty to a year-long suspension.

The Court of Appeals was in serious error.

**V**

The Court of Appeals noted, as a mitigating circumstance, "that petitioner has not been previously charged of any offense and this is the very first time that she was found to be administratively liable."[76]

In taking this as a mitigating circumstance, the Court of Appeals ran afoul of the clear text of the Uniform Rules on Administrative Cases in the Civil Service. Rule IV, Section 52(A)(3) of these Rules unqualifiedly states that dismissal shall be meted even if it is only the first offense:

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[75] *Id*. at 118.

[76] *Id*. at 38.

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RULE IV

Penalties

Section 52. Classification of Offenses. — Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:

. . . . . .

3. Grave Misconduct
1st offense — Dismissal[77]

Jurisprudence has been definite on this point. This Court's *En Banc* Decision in *Duque v. Veloso*[78] underscored how "the clear language of Section 52, Rule IV does not consider a first-time offender as a mitigating circumstance."

> [T]he circumstance that this is the respondent's first administrative offense should not benefit him. By the express terms of Section 52, Rule IV of the Uniform Rules, the commission of an administrative offense classified as a serious offense (like dishonesty) is punishable by dismissal from the service even for the first time. In other words, the clear language of Section 52, Rule IV does not consider a first-time offender as a mitigating circumstance. Likewise, under statutory construction principles, a special provision prevails over a general provision. Section 53, Rule IV of the Uniform Rules, a general provision relating to the appreciation of mitigating, aggravating or alternative circumstances, must thus yield to the provision of Section 52, Rule IV of the Uniform Rules which expressly provides for the penalty of dismissal *even for the first commission of the offense*.[79] (Emphasis supplied)

In *Medina v. Commission on Audit*,[80] this Court emphasized that "a grave offense cannot be mitigated by the fact that the

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[77] CSC Res. No. 991936 (1999), Sec. 52(A)(3).

[78] 688 Phil. 318 (2012) [Per *J.* Brion, *En Banc*].

[79] *Id*. at 326.

[80] *Medina v. Commission on Audit*, 567 Phil. 649 (2008) [Per *J.* Tinga, *En Banc*].

accused is a first-time offender or by the length of service of the accused."[81]

Jurisprudence is replete with cases declaring that a grave offense cannot be mitigated by the fact that the accused is a first time offender or by the length of service of the accused. In *Civil Service Commission v. Cortez*, the Court held as follows:

> The gravity of the offense committed is also the reason why we cannot consider the "first offense" circumstance invoked by respondent. In several cases, we imposed the heavier penalty of dismissal or a fine of more than ₱20,000.00, considering the gravity of the offense committed, even if the offense charged was respondent's first offense. Thus, in the present case, even though the offense respondent was found guilty of was her first offense, the gravity thereof outweighs the fact that it was her first offense.

Also, in *Concerned Employees v. Nuestro*, a court employee charged with and found guilty of dishonesty for falsification was meted the penalty of dismissal notwithstanding the length of her service in view of the gravity of the offense charged.

To end, it must be stressed that dishonesty and grave misconduct have always been and should remain anathema in the civil service. They inevitably reflect on the fitness of a civil servant to continue in office. When an officer or employee is disciplined, the object sought is not the punishment of such officer or employee but the improvement of the public service and the preservation of the public's faith and confidence in the government.[82] (Citations omitted)

The fact that an offender was caught for the first time does not, in any way, abate the gravity of what he or she actually committed. Grave misconduct is not a question of frequency, but, as its own name suggests, of gravity or weight. One who commits grave misconduct is one who, by the mere fact of that misconduct, has proven himself or herself unworthy of the

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[81] *Id*. at 664.

[82] *Id*. at 664-665.

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continuing confidence of the public. By his or her very commission of that grave offense, the offender forfeits any right to hold public office.

Underscoring the severity of grave misconduct and other offenses meriting dismissal, the 2017 RACCS now specifically state that no mitigating circumstances, of any sort, may be appreciated in cases involving an offense punishable by dismissal from service:

> Section 53. Mitigating and Aggravating Circumstances.— Except for offenses punishable by dismissal from the service, the following may be appreciated as either mitigating or aggravating circumstances in the determination of the penalties to be imposed:
>
> a. Physical illness;
> b. Malice;
> c. Time and place of offense;
> d. Taking undue advantage of official position;
> e. Taking undue advantage of subordinate;
> f. Undue disclosure of confidential information;
> g. Use of government property in the commission of the offense;
> h. Habituality;
> i. Offense is committed during office hours and within the premises of the office or building;
> j. Employment of fraudulent means to commit or conceal the offense;
> k. First offense;
> l. Education;
> m. Length of service; or
> n. Other analogous circumstances.
>
> In the appreciation thereof, the same must be invoked or pleaded by the respondent, otherwise, said circumstances will not be considered in the imposition of the proper penalty. The disciplining authority, however, in the interest of substantial justice, may take and consider these circumstances *motu proprio*.[83]

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[83] CSC Res. No. 1701077 (2017), Sec. 53.

## VI

The Court of Appeals also cited respondent's supposed "good work performance"[84] and referenced "affidavits executed by the representatives of other schools previously assisted by [respondent] . . . stating their satisfaction with the service rendered by [her]."[85]

This Court is, quite frankly, baffled by how solicited statements of support from supposedly satisfied clients could operate to erode the liability of one such as respondent.

The plain and evident truth is that, while the language of the charge against respondent seemed austere and unadorned, she did so much more than merely solicit pecuniary benefits from the complainants. A more appropriate summation of respondent's actions should recognize how she was so brazen in extorting—not merely soliciting, but downright badgering—money from the complainants. Throughout a prolonged period extending seven (7) months from October 2006 to May 2007, she pestered the complainants for bribes that she variably referred to as "processing fee,"[86] "accreditation fee,"[87] and "honorarium."[88] Respondent could not even bear to be consistent about the language she would use in her attempts to conceal extortion.

In the course of pressing the complainants for money, respondent even knowingly used a falsified copy of an official issuance of the Bureau of Immigration. The Court of Appeals took lengths to explain how respondent did this and then proceeded to explain the incredulity of respondent's denials:

> First, the records of the case show that when Doromal first met [respondent] at the Bureau, the latter told her that the accreditation fee is ₱50,000.00. [Respondent's] basis in assessing such amount

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[84] *Rollo,* p. 38.

[85] *Id*. at 37.

[86] *Id*. at 43.

[87] *Id*.

[88] *Id*.

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was her copy of *Office Memorandum Order No. RBR 00-57* which petitioner showed to Doromal when the latter was applying for accreditation. A copy of the said memorandum was also attached by petitioner to her counter-affidavit. The certified copy of the same memorandum submitted by Mr. Estrada, Chief of the Student Desk of the Bureau of Immigration, however, shows that the accreditation fee is merely ₱10,000.00.

Conspicuously missing also from petitioner's copy is the signature of the Commissioner of the Bureau of Immigration, Rufus Rodriguez. By reason of these dissimilarities, Atty. Tansingco, Chief of Staff of the Commissioner of the Bureau of Immigration was prompted to declare petitioner's copy as fake in his letter dated 05 December 2007 submitted to the Ombudsman.

[Respondent] denies knowing that the copy she was using is fake as she alleges that she merely obtained it from the available records of the Davao District Office. She, however, failed to present any proof to support this contention. Mere allegation is not proof. It was incumbent on the part of [respondent] to prove this allegation by at least submitting any copy of the memorandum existing in their Davao office similarly showing that the accreditation fee being charged is ₱50,000.00 and also not bearing the signature of the Commissioner of the Bureau of Immigration. Petitioner could have also submitted the affidavit of any of her officemates that they have also used or even came in contact with a copy of the said memorandum with the same omissions. [Respondent's] failure to do any of these greatly prejudiced her case.

Furthermore, WE agree with the observation of the Ombudsman that [respondent's] explanation that she does not know that the copy she was using is falsified and that she merely relied on the copy of *Office Memorandum No. RBR 00-57* available at their office, to be flimsy and crude to be worthy of belief. For even as [respondent] alleges that at the time she was merely an entry level employee when she was assigned to the Student's Desk at the Office and that to perform her duties she had to rely on her superior officers as well as the records of the office for information as to the applicable rules and regulations, it is still hard to believe that she was not able to discern the illegality of the copy of the memorandum she was using as it is clear that the same was unsigned.[89] (Citation omitted)

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[89] *Id*. at 56-57.

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Still in the course of badgering the complainants for money, respondent professed exercising undue influence over other officers of the Bureau of Immigration. She stated, "*I'll be backing you up, walang gugulo sa inyo*."[90] Likewise, she implicated other officers, repeatedly asserting that she was only soliciting for her boss, implying others were in on her corrupt scheme, and suggesting that Bureau of Immigration officers from Manila would have been more prodigal.[91]

Respondent's incessant demands also came with less than subtle threats that the complainants' inability to comply with her exaction would result in the denial of benefits that was available to St. Martha's. Recall that respondent told Doromal that it would be to Doromal's disadvantage were she to decline paying ₱50,000.00 as she would have to go through the entire accreditation process all over again. This was despite the fact that St. Martha's did not even need to go through accreditation, as the Court of Appeals explained, and how it submitted accreditation papers, even if it did not need to.[92]

Apart from these, when Diaz and Tautho paid through the Bureau of Immigration's official cashier, respondent, with neither reason nor any right to do so, demanded that they surrender to her their official receipt.[93]

Most telling of respondent's audacity and depravity is how she did not mince words in not only professing her own corruption, but even besmirching the entire government. Asked by Diaz if she was making demands "under the table," respondent answered, "*Yes, my dear, that's the system ng government*."[94] She even added, "*Ganito ang system, ano ako magmamalinis?*"[95]

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[90] *Id*. at 46.

[91] *Id*.

[92] *Id*. at 44.

[93] *Id*. at 31-32.

[94] *Id*.

[95] *Id*.

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Far from demonstrating considerations that should mitigate respondent's liability, her litany of transgressions could conceivably be appreciated as even aggravating. Her case makes it seem like someone breathed life to a caricature of a corrupt bureaucrat.

The civil service cannot have itself overrun by officers such as respondent. They make a mockery of every ideal that public service exemplifies. For once, some individuals had the courage to not condone her corruption. This is enough to show that respondent is nowhere near deserving of public trust. As a measure of recompense to the public, and as a portent to others who may be similarly disposed, this Court does not hesitate to impose upon respondent the supreme administrative penalty of dismissal from government service.

**WHEREFORE,** the Petition for Review on Certiorari is **GRANTED**. The July 19, 2013 Amended Decision of the Court of Appeals in CA-G.R. SP Nos. 120843 and 121748 is **REVERSED and SET ASIDE**. The Court of Appeals January 7, 2013 original Decision in the same CA-G.R. SP Nos. 120843 and 121748 is **REINSTATED**.

Respondent MARIA ROWENA REGALADO is found **GUILTY** of Grave Misconduct and of violating Section 7(d) of Republic Act No. 6713. She is to suffer the penalty of dismissal from service, along with its accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from employment in government.

**SO ORDERED.**

*Velasco, Jr.* (*Chairperson*), *Bersamin,* and *Gesmundo, JJ.,* concur.

*Martires, J.,* on official leave, as per Letter dated January 18, 2018.