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computed at the rate of one (1) month pay for every year of service, with a fraction of at least six (6) months considered as one whole year to be reckoned from the time of his employment on March 1, 2002 until the finality of this Decision.[48] **United Tourist Promotions and Ariel D. Jersey** are further **ORDERED TO PAY** Harland B. Kemplin legal interest of six percent (6%) *per annum* of the total monetary awards computed from the finality of this Decision until full satisfaction thereof.[49]

The **Labor Arbiter** is hereby **DIRECTED** to re-compute the awards according to the above.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Villarama, Jr., JJ.,* concur.

FIRST DIVISION

[A.M. No. P-13-3119. February 10, 2014]
(Formerly A.M. No. 12-9-68-MeTC)

EXECUTIVE JUDGE MA. OFELIA S. CONTRERAS-SORIANO, *complainant, vs.* **CLERK III LIZA D. SALAMANCA, METROPOLITAN TRIAL COURT, BRANCH 55, MALABON, CITY,** *respondent.*

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[48] Please *see Aliling v. Feliciano*, G.R. No. 185829, April 25, 2012, 671 SCRA 186.

[49] Please *see S.C. Megaworld Construction and Development Corporation v. Engr. Luis U. Parada*, G.R. No. 183804, September 11, 2013.

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SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; DISHONESTY AND CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE; FAILURE TO ACCOUNT FOR THE MONEY RECEIVED FROM LITIGANTS, A CASE OF.— The OCA found that Salamanca received from the defendant in *Syjuco* the money intended as partial settlement of his civil obligation to the plaintiff therein; that the plaintiff in *Quiroga* also entrusted to Salamanca an amount intended as payment for legal fees; that she received money from the litigants and failed to turn over the same; that her omissions were discovered when satisfaction/execution of the cases could not be fully implemented; that when asked to explain by Judge Contreras-Soriano, she claimed to have lost the entrusted sums. x x x The actuations of Salamanca constitute dishonesty and conduct prejudicial to the best interest of the service.

2. ID.; ID.; ID.; DISHONESTY, DEFINED; CONDUCT PREJUDICIAL TO THE BEST INTEREST OF SERVICE, DEFINED.— Dishonesty is defined as a disposition to lie, cheat, deceive, or defraud. It implies untrustworthiness, lack of integrity, lack of honesty, probity or integrity in principle on the part of the individual who failed to exercise fairness and straightforwardness in his or her dealings. Conduct prejudicial to the best interest of service, on the other hand, pertains to any conduct that is detrimental or derogatory or naturally or probably bringing about a wrong result; it refers to acts or omissions that violate the norm of public accountability and diminish - or tend to diminish - the people's faith in the Judiciary.

3. ID.; ID.; ID.; COURT PERSONNEL; THE STRINGENT ATTITUDE OF THE COURT TOWARDS CLERKS OF COURT WHO FAIL TO REMIT THEIR FIDUCIARY COLLECTIONS CANNOT BE APPLIED IN CASE AT BAR AS THE AMOUNTS MISAPPROPRIATED DID NOT ACQUIRE THE STATUS OF COURT FUNDS.— [I]t must be stressed that Salamanca's dishonesty does not consist of her failure to remit court funds because the money she received from the litigants did not acquire the status of court funds as no official receipt therefor was issued by her. The amounts misappropriated by Salamanca did

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not prejudice the Court's coffers since they never formed part of the Judiciary's public funds. The partial settlement paid by the defendant in *Syjuco* intended for the plaintiff, but received and misappropriated by Salamanca, was technically private money. The payment for legal fees in *Quiroga* received and pocketed by Salamanca never attained the status of being part of court funds because no official receipt was issued therefor precisely because Salamanca is not the authorized court employee to receive such payments in behalf of and for the Judiciary. It was not her duty to receive payments and issue official receipts. It also does not appear that she was authorized or designated to do so. Since the subject amounts never formed part of the court funds, there was no duty on her part to remit/deposit the same with the Land Bank pursuant to Supreme Court Circular No. 50-95. For this reason, the stringent attitude of the Court towards clerks of court who fail to remit their fiduciary collections as mandated by Supreme Court Circular No. 50-95 is not applicable to Salamanca who did not hold a similar accountable position nor designated to act as such. This does not, however, mean that the offense attributable to Salamanca is any less grave. The Court finds that the factors, taken together, are not commensurate with the extreme penalty of dismissal recommended by the OCA. The Court is persuaded to temper its power to wield penalty to an erring employee and instead adopt a compassionate and humane view at Salamanca's transgressions. A similar leniency was espoused by the Court in analogous cases.

4. ID.; ID.; ID.; MUST RESPECT THE RIGHTS OF OTHERS AND REFRAIN FROM DOING ACTS CONTRARY TO PUBLIC SAFETY AND PUBLIC INTEREST.— While Salamanca's complained acts involved technically private money, the deceit she pulled off disrupted the public's faith in the integrity of the judiciary and its personnel. She failed to live up to the high ethical standards required of court employees thereby prejudicing the best interest of the administration of justice. Her conduct tarnished the image and integrity of her public office and violated Republic Act (R.A.) No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees, Section 4(c) of which commands that public officials and employees shall at all times respect the rights of others, and shall refrain from doing acts contrary to public safety and public interest.

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5. ID.; ID.; ID.; DISHONESTY AND CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE; PENALTY; MITIGATING FACTORS ARE CONSIDERED IN DETERMINING THE IMPOSABLE PENALTY.— Rule 10, Section 46, subsections (A)(1) and (B)(8) of the RRACCS classify serious dishonesty and conduct prejudicial to the best interest of the service as grave offenses. Serious dishonesty entail outright dismissal from service as punishment while conduct prejudicial to the best interest of the service is penalized with suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense. It can not be gainsaid that jurisprudence on administrative cases abounds with instances wherein the Court has refrained from imposing the actual penalties in view of mitigating circumstances. As a matter of fact, Rule 10, Section 48 of the RRACCS also allows the disciplining authority to consider mitigating factors in determining the imposable penalty for erring civil service employees. Certain conditions such as length of service, the respondent's acknowledgement of his or her infractions and feeling of remorse, family circumstances, humanitarian and equitable considerations have altered the implications of a respondent's infractions. Likewise, it has been a guiding principle for the Court that where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe. It is not only for the law's concern for the workingman; there is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on wage earners. It is beyond question that prior to this case, Salamanca has had an unblemished record for never having been charged with any administrative offense. She has devoted a considerable period of twenty (20) years of her life to government service. She also humbled herself and acknowledged her infractions and expressed feelings of remorse for her excesses and shortcomings. Also, it is clear from the records that the amount misappropriated by her is not significantly huge.

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D E C I S I O N

REYES, *J.*:

This administrative complaint against Liza D. Salamanca (Salamanca), Clerk III of Metropolitan Trial Court (MeTC), Malabon City, Branch 55, was initiated by a letter[1] filed on September 5, 2012 before the Office of the Court Administrator (OCA) by Executive Judge Ma. Ofelia S. Contreras-Soriano (Judge Contreras-Soriano). The letter stated that Salamanca incurred unauthorized/unexplained absences from July 2 to 11, 2012, July 23 to 27, 2012 and August 15 to 22, 2012 without filing any application for leave of absence despite several reminders for her to do so. The letter further relayed other infractions committed by Salamanca with respect to two cases pending before the MeTC, *viz*: (1) she failed to account for and turn over the ₱12,000.00 she received for and on behalf of the plaintiff in *Jose M. Syjuco v. Dr. Joseph B. Morales* as partial settlement of the defendant's civil obligation; and (2) she failed to account for and turn over the payment for legal fees she received in the case of *Sopia Quiroga v. Annie Fermisa* which omission was only discovered when the writ of execution cannot be implemented as the receipt evidencing payment of legal fees was not attached to the records.

When asked to comment on the charges laid, Salamanca explained that her absences were due to her failing health caused by personal and professional problems and pressures. She cites that her heavy workload and weekly commute to her residence in Nueva Ecija greatly contributed to the deterioration of her health. She denied misappropriating the ₱12,000.00 intended for one litigant as partial settlement and claimed that she lost the same in the course of her routine transit to and from her workplace. She informed Judge Contreras-Soriano that she would just pay the same. She begged for compassion and humanitarian considerations in view of her 20 years of service in the judiciary and financial reliance on her by her family.[2]

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[1] *Rollo*, p. 1.

[2] *Id.* at 13-15.

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Forthwith, the OCA conducted investigation the results of which yielded that Salamanca violated the Civil Service Rules and Administrative Circular Nos. 02-2007 and 14-2002 for unauthorized absences on separate occasions in 2011 and 2012, particularly on the following dates:

2011	**2012**
September 5, 2011	July 2 to 11, 2012
September 28 to 30, 2011	July 23 to 27, 2012
October 3 to 10, 2011	August 15 to 22, 2012
October 17 to 18, 2011	

Anent her failure to account for the money she received from litigants on two (2) separate occasions, the OCA found Salamanca's explanation doubtful and unacceptable. The OCA construed the two incidents to be illustrative of her propensity to receive money from litigants, despite lack of authority to do so, and then appropriating the amount collected for her personal use. She even concealed her misdeed until the same was discovered by Judge Contreras-Soriano when the writ of execution in *Quiroga* could not be implemented because the receipt for payment of legal fees was not attached to the records, despite Salamanca having actually received the payment. The OCA concluded that Salamanca's repeated failure to remit court funds and to give satisfactory explanation for such failure constitutes grave misconduct and dishonesty. Consequently, the extreme penalty of dismissal was recommended to be imposed on her.[3]

The Court's Ruling

The Court affirms the OCA's findings that the complained acts of Salamanca merit punishment albeit with clarification on the findings upon which such conclusion was premised, and with modification of the recommended imposable penalty.

The OCA found that Salamanca received from the defendant in *Syjuco* the money intended as partial settlement of his civil obligation to the plaintiff therein; that the plaintiff in *Quiroga*

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[3] *Id.* at 21-27.

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also entrusted to Salamanca an amount intended as payment for legal fees; that she received money from the litigants and failed to turn over the same; that her omissions were discovered when satisfaction/execution of the cases could not be fully implemented; that when asked to explain by Judge Contreras-Soriano, she claimed to have lost the entrusted sums.

As observed by the OCA, Salamanca's explanation for her omission to turn over the subject sums to their intended recipients is too flimsy to merit consideration. Her claim that she lost the subject amounts while commuting to and from her workplace is but a mere afterthought because her misdeeds were already discovered. There was also no justifiable reason for her to bring the money along at her every whereabouts because she should have turned it over to their proper recipients – the partial settlement amount to the plaintiff in *Syjuco* and the legal fees payment to the clerk of court. Thus, the repeated instances of deception she staged and the insolence with which they were carried out subdues and renders unnecessary any express admission that she misappropriated the subject sums of money for her personal use.

The actuations of Salamanca constitute dishonesty and conduct prejudicial to the best interest of the service. Dishonesty is defined as a disposition to lie, cheat, deceive, or defraud. It implies untrustworthiness, lack of integrity, lack of honesty, probity or integrity in principle on the part of the individual who failed to exercise fairness and straightforwardness in his or her dealings.[4]

Conduct prejudicial to the best interest of service, on the other hand, pertains to any conduct that is detrimental or derogatory or naturally or probably bringing about a wrong result;[5]

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[4] *Re: Deceitful Conduct of Ignacio S. del Rosario, Cash Clerk III, Records and Miscellaneous Matter Section, Checks Disbursement Division, FMO-OCA,* A.M. No. 2011-05-SC, September 6, 2011, 656 SCRA 731, 735-736.

[5] See *Jugueta v. Estacio*, A.M. No. CA-04-17-P, November 25, 2004, 486 Phil. 206, 215-216 (2004), citing *Ballentine's Law Dictionary*, p. 978, 3rd Ed.

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it refers to acts or omissions that violate the norm of public accountability and diminish - or tend to diminish - the people's faith in the Judiciary.[6]

However, it must be stressed that Salamanca's dishonesty does not consist of her failure to remit court funds because the money she received from the litigants did not acquire the status of court funds as no official receipt therefor was issued by her. The amounts misappropriated by Salamanca did not prejudice the Court's coffers since they never formed part of the Judiciary's public funds. The partial settlement paid by the defendant in *Syjuco* intended for the plaintiff, but received and misappropriated by Salamanca, was technically private money. The payment for legal fees in *Quiroga* received and pocketed by Salamanca never attained the status of being part of court funds because no official receipt was issued therefor precisely because Salamanca is not the authorized court employee to receive such payments in behalf of and for the Judiciary. It was not her duty to receive payments and issue official receipts. It also does not appear that she was authorized or designated to do so.[7] Since the subject amounts never formed part of the court funds, there was no duty on her part to remit/deposit the same with the Land Bank pursuant to Supreme Court Circular No. 50-95.

For this reason, the stringent attitude of the Court towards clerks of court who fail to remit their fiduciary collections as

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[6] *Ito v. De Vera*, 540 Phil. 23, 33-34 (2006).

[7] Under BC CSC Form No. 1 (Position Description Form), the duties and responsibilities of a Clerk III in the Judiciary are as follows:

Under general supervision:

1. receives and enters in the docket books all cases filed, including all subsequent pleadings, documents, and other pertinent communications, updates docket particularly on the status of pending cases;

2. maintains other court books such as books on disposed cases, books on appealed cases, books on warrants of arrest issued, books on Judgment;

3. checks and verifies in the docket books all applications for clearances prepares periodic report on the status of individual cases;

4. performs other duties that may be assigned.

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mandated by Supreme Court Circular No. 50-95 is not applicable to Salamanca who did not hold a similar accountable position nor designated to act as such.

This does not, however, mean that the offense attributable to Salamanca is any less grave. The Court finds that the factors, taken together, are not commensurate with the extreme penalty of dismissal recommended by the OCA. The Court is persuaded to temper its power to wield penalty to an erring employee and instead adopt a compassionate and humane view at Salamanca's transgressions. A similar leniency was espoused by the Court in analogous cases.

In *Arganosa-Maniego v. Salinas*[8] which involved a utility worker in a Municipal Circuit Trial Court in Macabebe, Pampanga, the Court suspended for one (1) year, instead of dismissing from service, the respondent who was found guilty of dishonesty by taking and encashing for his personal use the check belonging to a Judge. The Court also meted one (1) year suspension to the respondent sheriff in *De Guzman, Jr. v. Mendoza*[9] who was found guilty of dishonesty and conduct prejudicial to the best interest of the service by soliciting and receiving money from litigants on several occasions in connection with a writ he was tasked to implement.

While Salamanca's complained acts involved technically private money, the deceit she pulled off disrupted the public's faith in the integrity of the judiciary and its personnel. She failed to live up to the high ethical standards required of court employees thereby prejudicing the best interest of the administration of justice. Her conduct tarnished the image and integrity of her public office[10] and violated Republic Act (R.A.) No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees, Section 4(c) of which commands that public officials and employees shall at all times respect the rights of

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[8] A.M. No. P-07-2400 (Formerly OCA IPI No. 07-2589-P), June 23, 2009, 590 SCRA 531.

[9] 493 Phil. 690 (2005).

[10] *Largo v. Court of Appeals*, 563 Phil. 293, 305 (2007).

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others, and shall refrain from doing acts contrary to public safety and public interest.[11]

Edifying the above code of conduct, the Court has repeatedly pronounced that:

> [T]he conduct of every court personnel must be beyond reproach and free from suspicion that may cause to sully the image of the Judiciary. They must totally avoid any impression of impropriety, misdeed or misdemeanor not only in the performance of their official duties but also in conducting themselves outside or beyond the duties and functions of their office. Court personnel are enjoined to conduct themselves toward maintaining the prestige and integrity of the Judiciary for the very image of the latter is necessarily mirrored in their conduct, both official and otherwise. They must not forget that they are an integral part of that organ of the government sacredly tasked in dispensing justice. Their conduct and behavior, therefore, should not only be circumscribed with the heavy burden of responsibility but at all times be defined by propriety and decorum, and above all else beyond any suspicion.[12] (Citation omitted)

Rule 10, Section 46, subsections (A)(1) and (B)(8) of the RRACCS classify serious dishonesty and conduct prejudicial to the best interest of the service as grave offenses. Serious dishonesty entail outright dismissal from service as punishment while conduct prejudicial to the best interest of the service is penalized with suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense.

It can not be gainsaid that jurisprudence on administrative cases abounds with instances wherein the Court has refrained from imposing the actual penalties in view of mitigating circumstances.[13] As a matter of fact, Rule 10, Section 48 of

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[11] *Consolacion v. Gambito,* A.M. No. P-06-2186 (Formerly A.M. OCA I.P.I. No. 05-2256-P), July 3, 2012, 675 SCRA 452, 463.

[12] *Id.* at 465.

[13] See *OCA v. Aguilar,* A.M. No. RTJ-07-2087 (Formerly OCA I.PI. No. 07-2621-RTJ), June 7, 2011, 651 SCRA 13, 25-29; *Arganosa-Maniego v. Salinas,* A.M. No. P-07-2400 (Formerly OCA IPI No. 07-2589-P), June 23, 2009, 590 SCRA 531, 544-545; *De Guzman, Jr. v. Mendoza,* 493 Phil. 690 (2005).

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the RRACCS also allows the disciplining authority to consider mitigating factors in determining the imposable penalty for erring civil service employees. Certain conditions such as length of service, the respondent's acknowledgement of his or her infractions and feeling of remorse, family circumstances, humanitarian and equitable considerations have altered the implications of a respondent's infractions.[14]

Likewise, it has been a guiding principle for the Court that where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe. It is not only for the law's concern for the workingman; there is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on wage earners.[15]

It is beyond question that prior to this case, Salamanca has had an unblemished record for never having been charged with any administrative offense. She has devoted a considerable period of twenty (20) years of her life to government service. She also humbled herself and acknowledged her infractions and expressed feelings of remorse for her excesses and shortcomings. Also, it is clear from the records that the amount misappropriated by her is not significantly huge.

Anent her absences, the same do not qualify as habitual for failing to meet the criteria of minimum three (3) months in a semester or three (3) consecutive months in a year as provided in Memorandum Circular No. 4, Series of 1991, of the Civil Service Commission.[16]

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[14] *Id.*

[15] *Arganosa-Maniego v. Salinas*, *id.* at 547.

[16] Memorandum Circular No. 4, Series of 1991, of the Civil Service Commission, states that an officer or employee in the civil service shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credits under the leave law for at least three (3) months in a semester or at least three (3) consecutive months during the year; *Reyes-Macabeo v. Valle*, 448 Phil. 583, 588 (2003).

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WHEREFORE, foregoing considered, Liza D. Salamanca, Clerk III of Metropolitan Trial Court, Malabon City, Branch 55, is hereby found **GUILTY** of Dishonesty and Conduct Prejudicial to the Best Interest of Public Service, and is hereby **SUSPENDED** for a period of **ONE (1) YEAR without pay**, commencing upon notice of this Decision, with warning that a repetition of the same or similar act/s shall be dealt with more severely.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Villarama, Jr., JJ.,* concur.

SECOND DIVISION

[G.R. No. 185838. February 10, 2014]

RICARDO V. QUINTOS, *petitioner, vs.* **DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD and KANLURANG MINDORO FARMER'S COOPERATIVE, INC.,** *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; AGRARIAN LAWS; TENANCY RELATIONSHIP; ELEMENTS.— Tenancy is a legal relationship established by the existence of particular facts as required by law. For a tenancy relationship to exist between the parties, the following essential elements must be shown: (*a*) the parties are the landowner and the tenant; (*b*) the subject matter is agricultural land; (*c*) there is consent between the parties; (*d*) the purpose is agricultural production; (*e*) there is personal cultivation by the tenant; and (*f*) there is sharing of the harvests between the parties. *All the above elements must*