Supreme Court E-Library

WHEREFORE, Judge Placido B. Vallarta is found guilty of ignorance of the law and delay in the disposition of cases and is hereby ordered to pay a fine of ₱2,000.00, with admonition to be more conscientious and prompt in the performance of his duties and with warning that repetition of similar infractions will be sanctioned more severely.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, Buena, and *De Leon, Jr., JJ.,* concur.

EN BANC

[A.M. No. P-00-1384. February 27, 2002]

JUDGE PASCUAL F. FOJAS, JR., Municipal Trial Court, Indang Cavite, *complainant, vs.* **GALICANO M. ROLLAN, Clerk of Court, Municipal Trial Court in Cities, Tagaytay City (then with MCTC, Indang Cavite),** *respondent.*

SYNOPSIS

This complaint filed by complainant herein stemmed from an audit examination conducted by the Commission on Audit on the cash accountabilities of the respondent, who was transferring to the MTCC, Tagaytay City from his post in the MCTC, Indang, Cavite. The cash collections were found to be in order, but the audit team discovered that the original copy of official receipt No. 2130901 was missing. Respondent originally executed an affidavit claiming that he did not use the said receipt and he exerted efforts to locate it, but to no avail. However, the acting clerk of court to his former post requested the National Bureau of Investigation to conduct a technical examination of the indentations found on the duplicate

Supreme Court E-Library

and triplicate copies of the lost receipt. While the NBI investigation was pending, respondent executed a second affidavit where he admitted that he issued the receipt to an unknown person who was penalized for playing *jueteng* and signed thereon. The case was referred to the Office of the Court Administrator (OCA) for investigation, report and recommendation. The OCA found that respondent's conflicting statements amounted to dishonesty which deserved administrative sanction. It recommended that the respondent be fined in the amount of ₱10,000.00 for his negligence and dishonesty.

According to the Supreme Court, the penalty recommended by the OCA was below that provided in the Civil Service Rules. The Court agreed with the Court Administrator that the respondent's position as an accountable officer carries a degree of trust of the highest order, but he has certainly lost the trust and confidence reposed on him by the Court which would be very hard to restore. Hence, the Court was constrained to impose upon the respondent, for his dishonesty, the supreme penalty of dismissal from the service, together with the administrative disabilities inherent in said penalty.

SYLLABUS

1. POLITICAL LAW; LAW ON PUBLIC OFFICERS; CLERK OF COURT; GROSS NEGLIGENCE; DISHONESTY; MISUSE OR LOSS OF ORIGINAL COPY OF OFFICIAL RECEIPT MERITS ADMINISTRATIVE SANCTION; CASE AT BAR. — The most telling pieces of evidence pointing to respondent's culpability for the loss of receipt no. 2130901 are the two affidavits he executed which contained conflicting statements as regards the missing receipt. In the first affidavit, he denied having used said receipt. He even reported the loss to the police and had it recorded in the police blotter. He submitted the affidavit to Judge Fojas, together with a copy of the report appearing in the police blotter. However, in his second affidavit, respondent made a complete turnaround and expressly admitted that he used the missing receipt, although he said it bore serial no. 2130401. What could have motivated respondent to contradict himself? This Court agrees with the observation made by Judge Fojas that the second affidavit was executed as an afterthought,

Supreme Court E-Library

during the period when the duplicate and triplicate copies of the missing receipt were being examined by the NBI. Respondent obviously feared being caught lying in case the NBI found out that the trace handwriting on the duplicate and triplicate copies were his. Thus, he executed the second affidavit, though his statements therein were still not forthcoming. We find it hard to believe that he would issue a receipt to an unknown person. Moreover, if the receipt was used in 1996, then the other receipts in the same booklet would have also been used by the time of the audit examination in 1999. However, the entire booklet containing receipts numbered from 2130901 up to 2130950 was intact except the original copy of receipt no. 2130901 was missing. Whether respondent misused the original copy of receipt no. 2130901 for a purpose other than what it was officially for, or lost said original by sheer negligence, would not exculpate him from liability. Further, it is immaterial whether or not he used it for his personal gain. He committed an act of gross negligence and dishonesty that merits administrative sanction, as found by the Court Administrator.

2. **ID.; ID.; ID.; ID.; DISHONESTY, A GRAVE OFFENSE PUNISHABLE BY DISMISSAL EVEN IN FIRST OFFENSE.** — Under Section 22, Rule XIV of the Omnibus Rules of the Civil Service, dishonesty is a grave offense punishable with dismissal even in the first offense. This penalty is reiterated in Civil Service Memorandum Circular No. 30, series of 1989, and again in Civil Service Memorandum Circular No. 19, series of 1999. The omnibus rules, in Rule XIV, Section 9, and the aforecited circulars likewise state that the penalty of dismissal from the service shall carry with it cancellation of civil service eligibility, forfeiture of leave credits and retirement benefits, and disqualification from reemployment in the government service. Moreover, as the Court Administrator well observed, respondent's position as an accountable officer carries a degree of trust of the highest order. But he certainly lost the trust and confidence reposed on him by the court which would be very hard to restore. We are, thus, constrained to impose upon respondent, for his dishonesty, the supreme penalty of dismissal from the service, together with the administrative disabilities inherent in said penalty.

Supreme Court E-Library

DECISION

***PER CURIAM*:**

Before us is an Administrative complaint filed by Judge Pascual F. Fojas, Jr., presiding Judge of the Municipal Circuit Trial Court of Indang – Mendez Nuñez, Indang, Cavite, against Galicano M. Rollan, former clerk of court of said MCTC, who is now with the Municipal Trial Court in Cities, Tagaytay City.

This complaint stemmed from an audit examination conducted by the Commission on Audit on the cash accountabilities of respondents Galicano M. Rollan, who was transferring to the MTCC, Tagaytay City from his post in the MCTC, Indang, Cavite effective April 1999.[1] The audit covered the period from June 1, 1994 to March 31, 1999.[2]

Respondent's cash collections were found to be in order. However, members of the audit team discovered that the original copy of official receipt no. 2130901 was missing. The team was informed that the booklet containing said receipt was found in the drawer of a cabinet previously used by respondent. However, the same booklet of receipt was not included in the statement of accountable forms submitted by respondent to the incoming clerk of court, Wilma de Fiesta.[3] Consequently, the audit team leader requested Judge Fojas to conduct an investigation into the matter and to submit a report thereon to the Office of the Provincial Auditor.[4]

In connection with the investigation, De Fiesta executed an affidavit[5] on July 18, 1999, stating that she was appointed officer-in-charge/clerk of court by Judge Fojas on April 19, 1999; that she took for her use two booklets of official receipts numbered 2130901-2130950 and 2130951-2131000; that she used the booklet with receipts numbered 2130951-2131000 since the original copy of receipt no. 2130901 was missing; that respondent arrived at

---

[1] *Rollo*, p. 1.

[2] *Ibid.*

[3] *Id.* at 2, 15.

[4] *Id.* at 15.

[5] *Id.* at 9.

Supreme Court E-Library

that moment and she asked him why said original copy was missing; that she advised him to report the matter to this Court for proper action; and that respondent took the entire booklet with receipts numbered 2130901-2130950.

De Fiesta stated that she was audited during the period June 8 to June 10, 1999,[6] and the auditor inquired why she did not use the receipts numbered 2130901-2130950. She informed the auditor that the original copy of receipt no. 2130901 was missing. On June 14, 1999, De fiesta narrated further, the auditor arrived with the booklet containing the receipt in question, which had earlier been given to the auditor by respondent. The auditor detached the duplicate and triplicate copies of receipt no. 2130901 in the presence of Judge Fojas and returned the booklet to De Fiesta.

Also on July 18, 1999, Dennis M. Constante, Clerk II of the MCTC in Indang, Cavite, likewise executed an affidavit[7] regarding the lost original receipt. He stated that when he carefully examined the duplicate and triplicate copies of receipt no. 2130901, he could see from the impressions on the paper that respondent signed the receipt. He claimed that he could also glean the words and figures "fine," "P.D. 1602," and "₱2,000." However, Constante said that when the duplicate and triplicate copies were again shown to him, it was as if the receipts had been ironed.

Previously, on June 23, 1999, respondent executed an affidavit of loss[8] stating that De Fiesta informed him of the loss of the original copy of receipt no. 2130901. He claimed that he did not use said receipt and that he exerted effort to locate it, but to no avail. In a letter to Judge Fojas dated June 30, 1999, respondent asked to be relieved of any responsibility arising from the loss of the receipt.

On July 20, 1999, De Fiesta requested the National Bureau of Investigation to conduct a technical examination of the

---

[6] July 8-10, 1999 according to the OCA, *Rollo*, p. 2.

[7] *Id.* at 10.

[8] *Id.* at 11.

Supreme Court E-Library

indentations found on the duplicate and triplicate copies of receipt no. 2130901.

While the NBI investigation was pending, respondent executed a second affidavit on September 21, 1999[9] where he expressly admitted that he issued receipt no. 2130901 and signed thereon. He stated that he issued the missing receipt sometime in 1996 to an unknown person, to acknowledge that he received a ₱2,000 fine imposed upon four persons who were caught playing jueteng. He said he would try to find the person to whom he issued the receipt.

In his report dated October 18, 1999 and submitted to the Office of the Provincial Auditor, Judge Fojas observed:

> . . . In a situation like this, it has always been an effective protective scheme to deny and gain positional advantage in a possible investigation. But as a result of an afterthought, when the questioned document was being subjected to a technical examination by the N.B.I., Mr. Rollan became remorseful as it appears that he has apparent motive to contrive or devise.
>
> Since Mr. Rollan is the only person who stood to benefit by the use of the missing Official Receipt, it follows that he is the material author of its disappearance. A person who changes his statement as he wants to suit his convenience, is unreliable. Mr. Rollan is not entitled to credit because if his affidavit is obviously the result of an afterthought and if he could have lied in his affidavit of June 23, 1999, for same motive, he can by the same token commit another falsity in his [other] affidavit.[10]

Judge Fojas recommended that respondent be removed from the service. He furnished the Office of the Court Administrator with a copy of his report, which this court treated as a complaint against respondent. In a resolution dated March 21, 2000, we relieved respondent of his duties as collecting officer of the MCTC, Indang, Cavite. In the same resolution, we noted that there were two other complaints, both filed by Judge Fojas, pending against respondent: one for inefficiency, negligence,

---

[9] *Id.* at 14.

[10] *Id.* at 7-8.

Supreme Court E-Library

and insubordination, and another for insubordination and refusal to perform official duty.

In his undated answer received by the OCA on June 6, 2000,[11] respondent assailed the statements made by Dennis M. Constante in his affidavit. Respondent stressed that Constante was not a handwriting expert and pointed out that the NBI itself stated that the indentation marks on the duplicate and triplicate copies of receipt no. 2130901 were "fragmentary undecipherable"[12] He claimed that he executed a second affidavit on September 21, 1999 to buy peace and only upon the suggestion of De Fiesta and Judge Fojas. He said that Judge Fojas had been filing baseless complaints against him, and that he would not have lasted 32 years in the service if he were insubordinate. He recanted the contents of the second affidavit and denied that he used receipt no. 2130901.

Attached to respondent's answer was a joint affidavit executed by two persons who knew him, attesting to his good character.

On July 3, 2000, we referred this matter to the OCA for investigation, report, and recommendation. It submitted a memorandum to this Court on September 22, 2000, with the following observations:

> After a careful examination of the records of the case, it is clear that respondent had been remiss in his duties as an accountable officer. Part of his duty before leaving his post as Clerk of Court of MCTC, Indang, Cavite is to turn-over all the accountable forms, and that includes official receipts, to his successor. In case of loss of any of the accountable forms, he ought to report the same to the proper authorities as mandated by COA Circular No. 84-233 dated August 21, 1984 reiterating GAO Memorandum Circular No. 318 dated February 11, 1957 xxx.
>
> xxx x x x x x x
>
> The purpose of the aforesaid circular is to prevent the fraudulent use of the missing form. Apparently, respondent failed to comply

[11] *Id.* at 19-23.

[12] *Id.* at 22.

Supreme Court E-Library

with said circular inasmuch as he failed to report the said loss to the Office of the Court Administrator.

Moreover, this Office took notice of respondent's conflicting statements as contained in his Affidavit of Loss dated June 23, 1999 wherein he disclaims responsibility for the disappearance of O.R. No. 2130901 xxx. This cavalier manner of changing statements does not speak well of respondent. However, it is not clear therefrom whether or not he indeed used the missing official receipt for any personal gain to the prejudice of the government. At most, his conflicting statements [amount] to dishonesty which deserves administrative sanction.[13]

The most telling pieces of evidence pointing to respondent's culpability for the loss of receipt no. 2130901 are the two affidavits he executed which contained conflicting statements as regards the missing receipt. In the first affidavit, he denied having used said receipt. He even reported the loss to the police and had it recorded in the police blotter. He submitted the affidavit to Judge Fojas, together with a copy of the report appearing in the police blotter. However, in his second affidavit, respondent made a complete turnaround and expressly admitted that he used the missing receipt, although he said it bore serial no. 2130401. What could have motivated respondent to contradict himself?

This Court agrees with the observation made by Judge Fojas that the second affidavit was executed as an afterthought, during the period when the duplicate and triplicate copies of the missing receipt were being examined by the NBI. Respondent obviously feared being caught lying in case the NBI found out that the trace handwriting on the duplicate and triplicate copies were his. Thus, he executed the second affidavit, though his statements therein were still not forthcoming. We find it hard to believe that he would issue a receipt to an unknown person. Moreover, if the receipt was used in 1996, then the other receipts in the same booklet would have also been used by the time of the audit examination in 1999. However, the entire booklet containing

---

[13] OCA Memorandum dated September 22, 2000, pp. 3-4.

Supreme Court E-Library

receipts numbered from 2130901 up to 2130950 was intact except that the original copy of receipt no. 2130901 was missing.

Respondent assails as hearsay the statements made by Constante that the trace handwriting on the duplicate and triplicate copies appeared to be respondent's. While the NBI later on failed to find anything conclusive as regards the trace handwriting, we find that Constante's statements and respondent's account, in his second affidavit, tally in their material points. On one hand, Constante stated that he could glean the words and figures "fine," "P.D. 1602," and "₱2,000" on the duplicate and triplicate copies. On the other hand, respondent in his second affidavit stated that he indeed used the receipt after he received payment in the amount of *₱2,000* as *fine* from four persons caught playing *jueteng*. P.D. 1602 prescribes penalties for *illegal gambling*. Constante could not have divined, when he executed his affidavit on July 18, 1999, what respondent would state in his second affidavit executed on September 21, 1999. Their congruence appears uncanny, if not a result of deliberate contrivance on respondent's part.

Given the flip-flopping affidavits of respondent, it is difficult to accept his self-serving defense in his answer that he did not use the missing receipt in any transaction, or for personal gain. His cavalier attitude in changing sworn statements indeed does not speak well of his candor and honesty.

Whether respondent misused the original copy of receipt no. 2130901 for a purpose other than what it was officially for, or lost said original by sheer negligence, would not exculpate him from liability. Further, it is immaterial whether or not he used it for his personal gain. He committed an act of gross negligence and dishonesty that merits administrative sanction, as found by the Court Administrator. On this finding, we are in full agreement.

The OCA recommends that respondent be fined in the amount of ₱10,000, for such negligence and dishonesty. This penalty, however, is below that provided in pertinent Civil Service rules. Under Section 22, Rule XIV of the Omnibus Rules of Civil

Supreme Court E-Library

Service, dishonesty is a grave offense punishable with dismissal even in the in the first offense. This penalty is reiterated in Civil Service Memorandum Circular No. 30, series of 1989,[14] and again in Civil Service Memorandum Circular No. 19, series of 1999.[15] The omnibus rules, in Rule XIV, Section 9, and the aforecited circulars likewise state that the penalty of dismissal from the service shall carry with it cancellation of civil service eligibility, forfeiture of leave credits and retirement benefits, and disqualification from any employment in the government service.[16]

Moreover, as the Court Administrator well observed, respondent's position as an accountable officer carries a degree of trust of the highest order. But he certainly lost the trust and confidence reposed on him by the court which would be very hard to restore.

We are, thus, constrained to impose upon respondent, for his dishonesty, the supreme penalty of dismissal from the service, together with the administrative disabilities inherent in said penalty.

WHEREFORE, respondent GALICANO M. ROLLAN, formerly clerk of court of MCTC of Indang-Mendez Nuñez, Indang, Cavite, and now clerk of Court in Cities, Tagaytay City, is found *GUILTY* of dishonesty and hereby ordered *DISMISSED* from the service, with forfeiture of all retirement benefits except leave credits, and with prejudice to reemployment in any branch of the government, including government-owned and controlled corporations. This dismissal shall be immediately executory.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and *Carpio, JJ.,* concur.

---

[14] Guidelines in the application of penalties in administrative cases.

[15] Revised uniform rules on administrative cases in the Civil Service.

[16] Section 58 of MC No. 19, s. 1999 qualifies this further: "... unless otherwise provided in the decision."