Supreme Court E-Library

SECOND DIVISION

[A.M. No. RTJ-99-1441. May 28, 1999]

ROMULO F. MANUEL by HORACIO M. PASCUAL, *complainant vs.* **JUDGE DEMETRIO D. CALIMAG, JR.,** *respondent.*

SYNOPSIS

The Office of the Court Administrator received a sworn letter-complaint from private complainant Horacio M. Pascual charging the respondent judge with dishonesty and serious misconduct prejudicial to the integrity and dignity of the judiciary for selling and causing to be sold a carnapped motor vehicle. In his Answer, respondent judge denied the allegations in the complaint and asserted that he sold the car in good faith, as he had no knowledge of any infirmity or defect in the title of the car. He pointed out that he did not encounter any problem at all when he transferred the ownership of the car in his name. Upon evaluation of the evidence presented, the Investigating Justice of the Court of Appeals found that complainant failed to substantiate his allegation that the subject car was a wanted carnapped vehicle. He therefore recommended that respondent judge be exonerated from the charges. Respondent judge, however, was admonished to be more careful in his transactions, exerting at all times due care and diligence in order to promote public confidence in the integrity of the judiciary.

To warrant dismissal of a public officer from the service on the ground of serious misconduct, there must be reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law. The misconduct must also have a direct relation to and be connected with the performance of his official duties. Complainant failed to present evidence showing that the acts complained of were related to the respondent Judge's official duties. Selling a car is not even remotely related to or connected with the discharge of his official functions. Neither was it proven that the acts complained of were corrupt or motivated by an intention to violate the law. Moreover, there was no proof to substantiate the allegation that respondent judge had knowingly sold a carnapped vehicle; much

Supreme Court E-Library

less was it established that the vehicle was stolen. However, respondent judge is not totally free from blame. He must be extra careful in all his dealings – both in his professional and individual capacities – in order to promote and protect the image of the Judiciary to which he is privileged to belong. The Supreme Court adopted the recommendation of the Investigating Justice for the dismissal of the charges. However, respondent judge was admonished to conduct himself accordingly in all his activities at all times to avoid any impropriety or even the appearance of impropriety.

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; SERIOUS MISCONDUCT; WHEN IT EXISTS.—** It is thus clear that serious misconduct to warrant dismissal of a public officer from the service, there must be reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law. The misconduct must be serious, important, weighty, momentous and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment. The misconduct must also have a direct relation to and be connected with the performance of his official duties.

2. **ID.; ID.; CHARGE OF SERIOUS MISCONDUCT AND DISHONESTY; NOT PROVEN IN CASE AT BAR.—** In the instant case, complainant failed to present evidence showing that the acts complained of were related to respondent Judge's official duties. Selling a car is not even remotely related to or connected with the discharge of his official functions. Neither was it proven that the acts complained of were corrupt or motivated by an intention to violate the law. There was no proof to substantiate the allegation that respondent Judge had knowingly sold a carnapped vehicle; much less was it established that the vehicle was stolen. Perforce, the charge of serious misconduct must fail. Corollarily, the charge of dishonesty which hinges on the same allegation that respondent Judge violated a law when he sold a car that was allegedly carnapped, must likewise fail.

3. **ID.; ID.; , MUST CONDUCT THEMSELVES ACCORDINGLY.—** That the charges proffered in the instant case do not directly refer to respondent Judge's official functions does not mean

Supreme Court E-Library

that he is totally free from blame. Canon 2 of the Code of Judicial Conduct provides that a judge should not only avoid impropriety but also the appearance of impropriety in all his activities. He should behave at all times as to promote public confidence in the integrity and impartiality of the judiciary. Thus, respondent Judge must conduct himself accordingly. He should be extra careful in all his dealings - both in his professional and individual capacities - in order to promote and protect the image of the Judiciary to which he is privileged to belong.

APPEARANCES OF COUNSEL

The Law Firm of Pascual and Lim for complainant.

D E C I S I O N

BELLOSILLO, *J.*:

On 17 April 1997 the Office of the Court Administrator received a sworn letter-complaint from Horacio M. Pascual charging Judge Demetrio D. Calimag, Jr. of RTC-Br. 35, Santiago City with dishonesty and serious misconduct prejudicial to the integrity and dignity of the judiciary for selling and causing to be sold a carnapped motor vehicle.

Complainant alleged that on 10 March 1991 respondent Judge sold to complainant's late father, Benjamin Manuel, a Toyota Corolla with Plate No. CBC-901. Sometime in February 1997 the subject car was apprehended by members of the Philippine National Police (TRAFCOM) while being driven by complainant along the national highway of San Mateo on suspicion of being a carnapped vehicle. Complainant was booked for violation of Anti-Fencing Law and his driver's license was confiscated. Since then, the subject vehicle has been impounded.

Complainant further narrated that the subject vehicle was first seized by elements of the Philippine National Police (Constabulary Highway Patrol Group) on 4 March 1992 allegedly for being a stolen vehicle. However, respondent Judge was able to secure the conditional release of the car by executing

Supreme Court E-Library

under oath that he would hold himself criminally or civilly liable for violation of any of the conditions set forth therein.

On 22 May 1997 the letter-complaint was referred to respondent Judge for comment. In his Answer respondent Judge denied the allegations in the complaint and asserted that he sold the car to Benjamin Manuel on 10 March 1991 in good faith as he had no knowledge of any infirmity or defect in the title of the car which he bought from his brother, Francisco Calimag, and who in turn purchased it from Rafael Mabbayad of Echague, Isabela. Respondent pointed out that he did not encounter any problem at all when he transferred the ownership of the car in his name. When the car was first seized by members of the Constabulary Highway Patrol Group on 4 March 1992, he was able to obtain its release on account of the absence of convincing evidence or proof that the car was indeed a carnapped vehicle.

Finding that a material conflict exists between complainant's allegations and respondent's comment and that no definitive finding could be made on the basis merely of the pleadings submitted, the Office of the Court Administrator recommended that the complaint be referred to an Associate Justice of the Court of Appeals for investigation, report and recommendation.

Thus on 14 October 1998 this Court referred the complaint to Associate Justice Teodoro P. Regino of the Court of Appeals. Hearings were conducted on 14 December 1998, 11 January 1999 and 26 January 1999. Upon evaluation of the evidence presented, the Investigating Justice found –

> Complainant failed to substantiate his allegation that the subject car was a wanted carnapped vehicle. The presentation of the computer print-out with the heading "Inquiry" issued by the "Wanted/Stolen Vehicle Info System" (Exhibit "D") and the Certification (Exhibit "E") issued by the apprehending officer, SPO4 Teodoro Duldulao of the Isabela Traffic Management Office, Santiago City are insufficient to impugn the legitimacy of respondent judge's prior ownership of the motor vehicle.
>
> x x x x x x x x x

Supreme Court E-Library

The Certification (Exhibit "E") does not support the allegation that the car is a wanted/carnapped vehicle. The apprehending officer merely indicated that the car, at the time of its seizure on 13 February 1997, had a cut and weld chassis number. There was no finding that any law was violated x x x. Hence, the fact of impounding does not establish conclusively that the car was a wanted or carnapped vehicle.

Based on the evaluation of the evidence presented, the Investigating Justice recommended that the charge for serious misconduct be dismissed. As to the charge of dishonesty, the Investigating Justice opined that since the charge was dependent on the allegation that respondent Judge sold a carnapped vehicle, the same should likewise be dismissed.

In conclusion, the Investigating Justice recommended that while respondent Judge be exonerated from the charges, he should be admonished to be more careful in his transactions, exerting at all times due care and diligence in order to promote public confidence in the integrity of the judiciary.

What constitutes serious misconduct has been thoroughly discussed in *Amosco v. Magro* —

Misconduct in office has been authoritatively defined by Justice Tuazon in *Lacson v. Lopez* in these words: "Misconduct in office has a definite and well-understood legal meaning. By uniform legal definition, it is a misconduct such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it has been said at all times, it is necessary to separate the character of the man from the character of the officer x x x It is settled that misconduct, misfeasance, or malfeasance warranting removal from office of an officer must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office x x x More specifically, in *Buenaventura v. Benedicto*, an administrative proceeding against a judge of the court of first instance, the present Chief Justice defines misconduct as referring 'to a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer."

---

[1] A.M. No. 439-MJ, 30 September 1976, 73 SCRA 108-109.

Supreme Court E-Library

In *In re Impeachment of Horilleno*[2] we held -

'(S)ufficient cause' must exist in the judgment of the Supreme Court involving 'serious misconduct'. The adjective is serious; that is, important, weighty, momentous, and not trifling. The noun is misconduct; that is, a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. The word 'misconduct' implies a wrongful intention and not a mere error of judgment. For serious misconduct to exist, there must be a reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules.

In *Salcedo v. Inting*[3] we also ruled -

It is to be noted that the acts of the respondent judge complained of have no direct relation with his official duties as City Judge. The misfeasance or malfeasance of a judge, to warrant disciplinary action must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of said judge.

It is thus clear from the foregoing cases that serious misconduct to warrant dismissal of a public officer from the service, there must be reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law. The misconduct must be serious, important, weighty, momentous and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment. The misconduct must also have a direct relation to and be connected with the performance of his official duties.

In the instant case, complainant failed to present evidence showing that the acts complained of were related to respondent Judge's official duties. Selling a car is not even remotely related to or connected with the discharge of his official functions. Neither was it proven that the acts complained of were corrupt or motivated by an intention to violate the law. There was no proof to substantiate the allegation that respondent Judge had

[2] 43 Phil. 214 (1922).

[3] A.M. No. 1810-CTJ, 29 June 1979, 91 SCRA 27.

Supreme Court E-Library

knowingly sold a carnapped vehicle; much less was it established that the vehicle was stolen. Perforce, the charge of serious misconduct must fail. Corollarily, the charge of dishonesty which hinges on the same allegation that respondent Judge violated a law when he sold a car that was allegedly carnapped, must likewise fail.

That the charges proffered in the instant case do not directly refer to respondent Judge's official functions does not mean that he is totally free from blame. Canon 2 of the Code of Judicial Conduct provides that a judge should not only avoid impropriety but also the appearance of impropriety in all his activities. He should behave at all times as to promote public confidence in the integrity and impartiality of the judiciary. Thus, respondent Judge must conduct himself accordingly. He should be extra careful in all his dealings - both in his professional and individual capacities — in order to promote and protect the image of the Judiciary to which he is privileged to belong. In *Mirano v. Saavedra*[4] we declared —

> Public service requires utmost integrity and strictest discipline. A public servant must exhibit at all times the highest sense of honesty and integrity. The administration of justice is a sacred task. By the very nature of their duties and responsibilities, all those involved in it must faithfully adhere to, hold inviolate, and invigorate the principle solemnly enshrined in the 1987 Constitution that a public office is a public trust; and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency. The conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. Their conduct, at all times, must not only be characterized by propriety and decorum but, above all else, must be above suspicion. Indeed, every employee of the judiciary should be an example of integrity, uprightness and honesty.

WHEREFORE, this Court *RESOLVES* to adopt the recommendation of Investigating Justice Teodoro P. Regino *DISMISSING* the charges for serious misconduct and dishonesty

---

[4] A.M. P-89-383, August 1993, 225 SCRA 77.

Supreme Court E-Library

against Judge Demetrio D. Calimag, Jr. of RTC-Br. 35, Santiago City, for lack of merit. However, respondent Judge Demetrio D. Calimag, Jr., is *ADMONISHED* to conduct himself accordingly in all his activities at all times as to avoid any impropriety or even the appearance of impropriety.

SO ORDERED.

Puno, Mendoza, Quisumbing, and *Buena, JJ.,* concur.

SECOND DIVISION

[G.R. No. 113600. May 28, 1999]

RIZALINA LAMZON, doing business under the name and style RIZAL INTERNATIONAL SHIPPING SERVICES, *petitioner, vs.* **NATIONAL LABOR RELATIONS COMMISSION, FIRST DIVISION, MANILA, HON. FELICISIMO O. JOSON, in his capacity as ADMINISTRATOR, PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION, MANUEL BANTA and EDILBERTO CUETARA,** *respondents.*

SYNOPSIS

The case under consideration is a petition for *certiorari* which stemmed from the separate complaints filed by private respondents against herein petitioner for non-payment of wages and other benefits before the Philippine Overseas Employment Agency (POEA). Records show that the POEA rendered a decision in favor of the private respondents and ordered the petitioner to pay the two respondents their unpaid claim amounting to $3,432.20 and $1,054.64, respectively. On appeal, the National Labor Relations Commission (NLRC) in a Resolution dated October 26, 1993 dismissed the appeal on