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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

EN BANC

[A.M. No. P-13-3126. February 4, 2014]
(Formerly A.M. OCA IPI No. 09-3273-P)

VERONICA F. GALINDEZ, *complainant, vs.* **ZOSIMA SUSBILLA-DE VERA,** *respondent.*

SYLLABUS

POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; A STENOGRAPHER WHO FRAUDULENTLY MISREPRESENTED HER ABILITY TO FACILITATE A LEGAL PROCEEDING IN EXCHANGE FOR MONEY IS GUILTY OF GRAVE MISCONDUCT WARRANTING THE PENALTY OF DISMISSAL FROM THE SERVICE.— To deserve the trust and confidence of the people, Susbilla-De Vera was expected to have her dealings with the public to be always sincere and above board. She should not lead others to believe that despite her status as a minor court employee she had the capacity to influence the outcomes of judicial matters. Her acts and actuations did not live up to the expectation, for the records unquestionably showed how she had deliberately and fraudulently misrepresented her ability to assist the complainant in the adoption of her niece and nephew. For one, if there would be such a case, she could not make such assurance to the complainant because the handling court would independently and objectively handle and decide the case based on its merits.

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> She was also aware that her representations to the complainant about no other adoption petition being yet filed in the Family Court, and about her working together with a lawyer to advance the legal matter for the complainant were both false, for there had already been another petition for adoption initiated by the complainant's own brother, and there had been no lawyer working with her to assist the complainant. Section 2, Canon 1 of the *Code of Conduct for Court Personnel* has enjoined all court personnel from soliciting or accepting "any gift, favor or benefit based on any or explicit understanding that such gift, favor or benefit shall influence their official actions." Susbilla-De Vera thus violated her sacred oath as a court employee to serve the Judiciary with utmost loyalty and to preserve the integrity and reputation of the Judiciary as an institution dispensing justice to all. Her violation was made worse by her committing it in exchange for easy money. She was thereby guilty of corruption. She compounded her guilt by disobeying the orders of the Court requiring her to explain herself. Under the circumstances, she committed grave misconduct, which the Court has described in *Velasco v. Baterbonia* as follows: In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule must be manifest. **Corruption as an element of grave misconduct consists in the act of an official or employee who unlawfully or wrongfully uses her station or character to procure some benefit for herself or for another, contrary to the rights of others**. x x x Grave misconduct is punishable by the ultimate penalty of dismissal from the service.

D E C I S I O N

***PER CURIAM*:**

A court stenographer who defrauded a litigant by soliciting money to supposedly facilitate a legal proceeding in the court is guilty of the most serious administrative offense of grave misconduct. Her dismissal from the service is fully warranted.

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Antecedents

This administrative case stemmed from the complaint-affidavit dated October 12, 2009 filed by Veronica F. Galindez (Galindez) against Court Stenographer Zosima Susbilla-De Vera (Susbilla-De Vera) of the Regional Trial Court, Branch 72, in Olongapo City.

In her complaint-affidavit,[1] Galindez averred that sometime in July 2008, she had approached Susbilla-De Vera, her school batchmate and a court employee, to inquire where any petition for the adoption of her nephew and niece had already been filed, pending, or approved by the Family Court, as she was interested in filing such a petition herself; that after several follow-ups, Susbilla-De Vera had reported to her that she could not locate any adoption petition involving the intended adoptees in the Family Court; that Susbilla-De Vera had then volunteered that she could handle the adoption process for her by coordinating with a lawyer, and that she could help in the fast-tracking of the petition; that Susbilla-De Vera had even boasted that it would take only three months for the entire process, and that there would be no need to follow up or to hire a lawyer to handle the petition; that Susbilla-De Vera had told her that the cost for the adoption process would be ₱130,000.00, half of which should be paid as down payment; that Susbilla-De Vera had followed up with her on the proposal; that because she could raise only ₱20,000.00 as down payment, Susbilla-De Vera had told her that the ₱20,000.00 would be acceptable, and that she would just talk to a certain "Atty. Nini," the handling lawyer; that she had paid the ₱20,000.00 to Susbilla-De Vera; that after a week, Susbilla-De Vera had called her to ask for the balance of the down payment; that she had willingly given the balance on two separate occasions, the first the amount of ₱30,000.00 and the second the amount of ₱15,000.00 a week later; that Susbilla-De Vera had handed her a receipt for the full amount of ₱65,000.00, with the assurance that everything would be handled well, and she had made follow-ups on the progress of

[1] *Rollo*, pp. 1-3.

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the adoption proceedings, and Susbilla-De Vera had informed her that publication had already been done but that there would be other papers that needed to be located; that because of her refusal to divulge the name of the lawyer she had visited Susbilla-De Vera's office to ask the latter to facilitate a meeting with the engaged counsel; that Susbilla- De Vera had instead brought her to the Family Court (Branch 73) to look into the logbook to find out if the previous adoption had been in fact completely processed; that by the actuations of Susbilla-De Vera had given her cause to doubt, and she had then gone to the Farinas Law Office herself to inquire on the status of the adoption petition; that the legal secretary of the law office had told her that the adoption had already been completed with her brother as the petitioner; that because of that information, she had demanded from Susbilla-De Vera to return the money but Susbilla-De Vera had replied that the money had been delivered to the lawyer; that she had offered to personally see the lawyer about the return of the down payment, but Susbilla-De Vera had insisted to do it herself; that after a few days, Susbilla-De Vera had informed her that the lawyer would be returning the money in two installments; and that she had not received any reimbursement by Susbilla-De Vera as of the filing of the complaint-affdiavit.[2]

On October 26, 2009, acting on the administrative complaint, the Office of the Court Administrator (OCA) directed Susbilla-De Vera to submit her comment within ten days from receipt.[3]

When the OCA did not receive her comment thereafter, it sent another directive dated January 22, 2010 to Susbilla-De Vera for her to comply with the previous order to submit her comment.[4]

Upon the recommendation of Court Administrator Jose Midas P. Marquez, the Court directed Susbilla-De Vera to submit

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[2] *Id*. at 1-3.

[3] *Id*. at 9.

[4] *Id*. at 10.

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her comment within five days with a warning that the Court would decide the administrative complaint on the basis of the record; and to show cause within ten days why she should not be held administratively liable for not complying with the two directives from the OCA.[5]

But Susbilla-De Vera still did not comply with the order for her to submit her comment. Hence, the Court deemed the case submitted for decision based on the records on file; and referred it to the OCA for evaluation, report, and recommendation.[6]

Findings and Recommendations of the OCA

In the memorandum dated September 12, 2011,[7] the OCA rendered its findings, and recommended dismissal from the service as the disciplinary action to be taken against Susbilla-De Vera, to wit:

xxx x x x xxx

Section 2 of the Code of Conduct for Court Personnel provides that "court personnel shall not solicit or accept any gift, favor or benefit on any or explicit or implicit understanding that such gift, favor or benefit shall influence their official functions" while Section 1 thereof provides that "court personnel shall not use their official position to secure unwarranted benefits, privileges or exemptions for themselves or for others."

In the case at bar, respondent violated these provisions as she took advantage of her official position in receiving the amount of ₱65,000.00 from Complainant for the alleged hiring of a counsel in the filing of a petition for adoption which did not materialize as the minors to be adopted were already the subject in a decided adoption case and, thus, committed grave misconduct. Moreover, she manifested her defiance with the directives of the OCA.

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[5] *Id*. at 14.

[6] *Id*. at 16.

[7] *Id*. at 19-20.

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Grave Misconduct is punishable by dismissal from the service for the first offense with disqualification from employment in any government office and forfeiture of benefits, except for accrued leaves under Sec. 52 (A) (3) of the Revised Uniform Rules on Administrative Cases in the Civil Service and Rule XIV, Section 22 of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, as amended by Section 52(A), paragraphs 1 and 3 of Civil S(s)ervice Commission Memorandum Circular No. 19, Series of 1999.

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In view of the foregoing, it is respectfully recommended, for approval of this Honorable Court, that:

x x x x x x x x x

2. For Grave Misconduct and Disrespect and Indifference to this Court's Resolutions, Ms. Zosima R. Susbilla-de Vera be DISMISSED from the service with forfeiture of all retirement benefits, except accrued leave benefits, and with perpetual and absolute disqualification from re-employment in any branch or instrumentality of the government, including government owned or controlled corporations.

Ruling of the Court

We find the findings of the OCA to be substantiated by the evidence on record, and the recommendation of dismissal from the service to be conformable to the law and pertinent jurisprudence.

Section 1, Article XI of the 1987 Constitution enshrines the principle that a public office is a public trust. It mandates that public officers and employees, who are servants of the people, must at all times be accountable to them, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives.

To enforce this constitutional tenet, the Court has incessantly reminded officials and employees involved in the administration of justice to faithfully adhere to their mandated duties and responsibilities. Any act of impropriety – whether committed

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by the highest judicial official or by the lowest member of the judicial workforce – can greatly erode the people's confidence in the Judiciary. The image of a court of justice is necessarily mirrored in the conduct of its personnel. It is the personnel's constant duty, therefore, to maintain the good name and standing of the court as a true temple of justice.[8]

To deserve the trust and confidence of the people, Susbilla-De Vera was expected to have her dealings with the public to be always sincere and above board. She should not lead others to believe that despite her status as a minor court employee she had the capacity to influence the outcomes of judicial matters. Her acts and actuations did not live up to the expectation, for the records unquestionably showed how she had deliberately and fraudulently misrepresented her ability to assist the complainant in the adoption of her niece and nephew. For one, if there would be such a case, she could not make such assurance to the complainant because the handling court would independently and objectively handle and decide the case based on its merits. She was also aware that her representations to the complainant about no other adoption petition being yet filed in the Family Court, and about her working together with a lawyer to advance the legal matter for the complainant were both false, for there had already been another petition for adoption initiated by the complainant's own brother, and there had been no lawyer working with her to assist the complainant.

Section 2, Canon 1 of the *Code of Conduct for Court Personnel* has enjoined all court personnel from soliciting or accepting "any gift, favor or benefit based on any or explicit understanding that such gift, favor or benefit shall influence their official actions." Susbilla-De Vera thus violated her sacred oath as a court employee to serve the Judiciary with utmost

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[8] *Velasco v. Baterbonia*, A.M. P-06-2161 (Formerly A.M. OCA IPI No. 05-2115-P), September 25, 2012, 681 SCRA 666, 673; *Office of the Court Administrator v. Recio*, A.M. No. P-04-1813 (Formerly A.M. No. 04-5-119-MeTC), May 31, 2011, 649 SCRA 552, 566-567.

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loyalty and to preserve the integrity and reputation of the Judiciary as an institution dispensing justice to all. Her violation was made worse by her committing it in exchange for easy money. She was thereby guilty of corruption. She compounded her guilt by disobeying the orders of the Court requiring her to explain herself.

Under the circumstances, she committed grave misconduct, which the Court has described in *Velasco v. Baterbonia*[9] as follows:

> In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule must be manifest. **Corruption as an element of grave misconduct consists in the act of an official or employee who unlawfully or wrongfully uses her station or character to procure some benefit for herself or for another, contrary to the rights of others**. x x x

Grave misconduct is punishable by the ultimate penalty of dismissal from the service. This is pursuant to Section 46, A, of the *Revised Rules on Administrative Cases in the Civil Service*, Series of 2011, to wit:

> Section 46. 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 grave offenses shall be punishable by dismissal from the service:
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> 1. Serious Dishonesty;
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> 2. Gross Neglect of Duty;
>
> **3. Grave Misconduct;**
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> x x x x x x x x x

In *Dela Cruz v. Malunao*,[10] we dismissed an erring employee of the RTC in Nueva Vizcaya who had solicited money from

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[9] *Id*. at 674.

[10] A.M. No. P-11-3019, March 20, 2012, 668 SCRA 472.

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litigants in exchange for favorable decisions. For sure, the acts of Susbilla-De Vera were of the same nature and gravity.

WHEREFORE, the Court:

1. FINDS Court Stenographer **ZOSIMA SUSBILLA-DE VERA** guilty of **GROSS MISCONDUCT**; and **DISMISSES** her from the service effective immediately, with prejudice to her re-employment in the Government, including government-owned or -controlled corporations, and with forfeiture of all retirement benefits, except accrued leave credits;

2. DIRECTS the Employees Leave Division, Office of the Administrative Services, to determine the balance of **ZOSIMA SUSBILLA-DE VERA**'s earned leave credits; and

3. ORDER ZOSIMA SUSBILLA-DE VERA to return to complainant Veronica F. Galindez the amount of ₱65,000.00.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Abad, Villarama, Jr., Perez, Mendoza, Reyes, Perlas-Bernabe, and *Leonen, JJ.,* concur.

EN BANC

[G.R. No. 175723. February 4, 2014]

THE CITY OF MANILA, represented by MAYOR JOSE L. ATIENZA, JR., and MS. LIBERTY M. TOLEDO, in her capacity as the City Treasurer of Manila, *petitioners, vs.* **HON. CARIDAD H. GRECIA-CUERDO, in her capacity as Presiding Judge of the Regional Trial Court, Branch 112, Pasay City; SM**