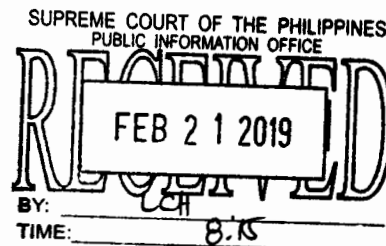




Republic of the Philippines
Supreme Court
Manila

EN BANC



ZENMOND D. DUQUE,
Complainant,

A.M. No. P-16-3505
[Formerly OCA IPI No. 13-4134-P)

Present:

BERSAMIN, CJ,
CARPIO,
PERALTA,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
REYES, JR., A.B.,
GESMUNDO,
REYES, JR., J.C.,
HERNANDO, and
CARANDANG, JJ.

- versus -

CESAR C. CALPO, COURT
STENOGRAPHER III,
REGIONAL TRIAL COURT,
BRANCH 16, CAVITE CITY,
Respondent.

Promulgated:

January 22, 2019

X ----- X

DECISION

PER CURIAM:

This refers to the May 28, 2013 Complaint-Affidavit¹ filed by Zenmond D. Duque (*complainant*) against Cesar C. Calpo (*respondent*), Court Stenographer III, Regional Trial Court (RTC) of Cavite City, Cavite, Branch 16, before the Office of the Court Administrator (OCA) for

¹ Rollo, pp. 1-5.

malfeasance, grave misconduct, dishonesty, and conduct unbecoming of a public official in the judiciary.

Respondent filed a Comment,² dated September 6, 2013 on the complaint-affidavit. In his comment, respondent neither denied nor admitted receiving any amount from complainant and giving the latter a copy of any decision.

Considering the conflicting statements of the parties and seriousness of the charges, the Court referred the administrative complaint for investigation to the Executive Judge of the RTC of Cavite City, Cavite.³

In his June 14, 2016 Report,⁴ the investigating judge, Executive Judge Agapito S. Lu, declared that after conducting hearings, he obtained the following information:

Complainant, a member of the Philippine Coast Guard, alleged that sometime in September 2010, he met respondent through a common friend. After opening up about his marital problems to respondent, the latter voluntarily offered his services to help complainant secure an annulment order from the court. As payment, complainant paid respondent the total amount of One hundred fifty thousand pesos (P150,000.00) in three equal installments, evidenced by receipts duly signed by respondent.⁵

Sometime within the last week of October or first week of November 2010, respondent accompanied complainant to the office of a certain Dr. Macario S. Barinque in Mandaluyong City for a psychological examination. A few weeks later, complainant received a copy of the psychological examination results.⁶

Months passed but there was no progress in the annulment case. A year later, sometime in November 2011, respondent gave a copy of the Decision⁷ issued by the RTC of Dasmariñas City, Cavite, Branch 90, docketed as Civil

² Id. at 62-63.

³ Id. at 81-82; Resolution dated July 7, 2014.

⁴ Id. at 222-225.

⁵ Id. at 6, 7 and 17.

⁶ Id. at 8-16.

⁷ Id. at 18-29.

Case No. DAS-815-11, penned by Executive Judge Perla V. Cabrera-Faller (*Judge Cabrera-Faller*), granting complainant an annulment of his marriage.


Suspicious of the veracity of the decision, complainant followed the advice of a lawyer and sought to verify its authenticity. To his dismay, complainant learned that there was no such case and that Judge Cabrera-Faller had not issued any such decision. He also learned that her signature therein was a forgery.

Complainant confronted respondent of his discovery, who begged complainant not to file any case against him and promised to return the money.

Despite several demands and time to comply, respondent failed to fulfill his promise. On April 10, 2013, complainant sent a demand letter requiring respondent to pay the amount within five (5) days from receipt thereof, otherwise, complainant would file the appropriate criminal and administrative cases. But the demand fell on deaf ears, hence, the present administrative complaint.

During the investigation, respondent admitted to receiving the amount of ₱150,000.00 from complainant. He explained that he used the money for the processing fee, filing fee, psychological examination fee, and lawyer's fee. However, respondent denied that he handed the subject decision to complainant.

After the hearings, the investigating judge determined that it was respondent who offered his services to complainant for the annulment of the latter's marriage for a fee of ₱150,000.00, which respondent did not deny. The investigating judge also resolved that respondent manufactured and falsified the decision purportedly rendered by the RTC of Dasmariñas City, Cavite, Branch 90 and forged the signature of Judge Cabrera-Faller appearing thereon. Considering that the acts of respondent clearly constitute grave misconduct, the investigating judge recommended the dismissal of respondent from service and all of his benefits forfeited therefor.



The OCA Recommendation

In its October 28, 2016 Report and Recommendation,⁸ the OCA concurred with the findings of the investigating judge and accordingly found respondent guilty of grave misconduct and recommended his dismissal from service, with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from re-employment in government service. The OCA subscribed to the findings of the investigating judge that respondent's act of receiving money from a litigant to facilitate the annulment of his marriage amounted to grave misconduct.

The OCA further explained that respondent, as a court stenographer, was not authorized to collect or receive any amount of money from any litigant. The act of collecting or receiving money from a litigant constituted grave misconduct in office.

The Court's Ruling

The Court adopts and accepts the findings and recommendation of the OCA.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer.⁹ It is intentional wrongdoing or deliberate violation of a rule of law or standard of behavior and to constitute an administrative offense, the misconduct should relate to or be connected with the performance of the official functions and duties of a public officer.¹⁰ In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, and not a mere error of judgment, or flagrant disregard of established rule, must be manifest in the former.¹¹

On the other hand, dishonesty means "a disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity, lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray."¹²

⁸ Id. at 229-231.

⁹ *Judge Tolentino-Genilo v. Pineda*, A.M. No. P-17-3756, October 10, 2017.

¹⁰ Id.

¹¹ Id.

¹² *Geronca v. Magalona*, 568 Phil. 564-570 (2008).

Respondent's actuations clearly demonstrate an intent to violate the law or a persistent disregard of well-known rules.¹³ Respondent deceived complainant into believing he had the power to obtain an annulment order in complainant's favor. Receiving money from complainant, on the consideration that he can obtain a favorable decision from the court, falsifying a court decision, and forging the signature of the trial court judge, undeniably constitute grave misconduct and serious dishonesty.

A public servant is expected to exhibit, at all times, the highest degree of honesty and integrity and should be made accountable to all those whom he serves.¹⁴ The same principle applies from the judge to the least and lowest of the judiciary's employees and personnel.¹⁵ Unfortunately, respondent failed to exact the same integrity, propriety, decorum, and honesty. Without a doubt, therefore, respondent patently committed grave misconduct and dishonesty.

Sec. 46, Rule 10 of the Revised Rules on Administrative Cases in the Civil Service, promulgated on November 8, 2011, classifies grave misconduct and serious dishonesty as grave offenses.¹⁶ Accordingly, the imposable penalty for grave misconduct and serious dishonesty is the extreme penalty of dismissal from service. Sec. 52(a) of the same Rules states that the penalty of dismissal shall carry with it the cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from holding public office and bar from taking civil service examinations.¹⁷

WHEREFORE, respondent CESAR C. CALPO, Court Stenographer III, Regional Trial Court of Cavite City, Cavite, Branch 16, is found **GUILTY** of grave misconduct and serious dishonesty. He is hereby **DISMISSED** from service, with **FORFEITURE** of all benefits, except accrued leave credits, if any, and **PERPETUALLY DISQUALIFIED** from re-employment in any government instrumentality, including government-owned and controlled corporations, without prejudice to the filing of appropriate criminal and civil cases.

SO ORDERED. 

¹³ *Gacad v. Judge Clapis, Jr.*, 691 Phil. 126, 140 (2012).

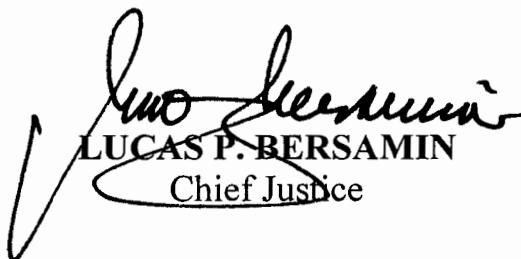
¹⁴ *Judge Tolentino-Genilo v. Pineda*, supra note 9.


¹⁵ *Id.*

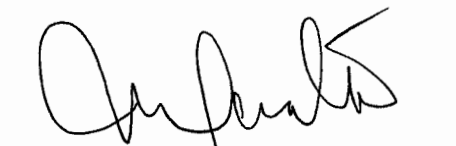
¹⁶ Revised Rules on Administrative Cases in the Civil Service, Rule 10, Sec. 46.

¹⁷ Revised Rules on Administrative Cases in the Civil Service, Rule 10, Sec. 52(a).


WE CONCUR

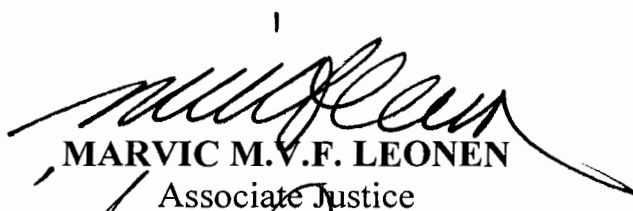

LUCAS P. BERSAMIN
Chief Justice



ANTONIO T. CARPIO
Associate Justice

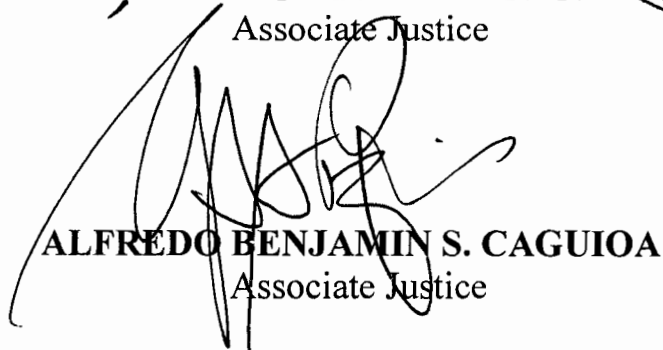

DIOSDADO M. PERALTA
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

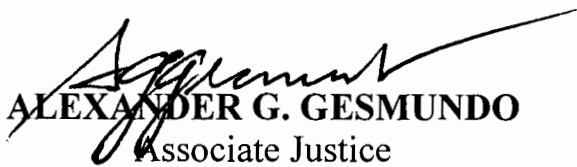

ESTELA M. PERLAS-BERNABE
Associate Justice

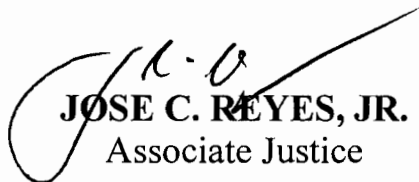

MARVIC M.V.F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice