



Republic of the Philippines
Supreme Court
Manila

EN BANC

**RE: DECEITFUL CONDUCT OF
IGNACIO S. DEL ROSARIO,
CASH CLERK III, RECORDS
AND MISCELLANEOUS MATTER
SECTION, CHECKS DISBURSEMENT
DIVISION, FMO-OCA**

IGNACIO S. DEL ROSARIO,
Petitioner.

A.M. No. 2011-05-SC

Present:

CARPIO, J.,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
MARTIRES,
TIJAM,
REYES, JR., and
GESMUNDO, JJ.

Promulgated:

June 19, 2018

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RESOLUTION

CARPIO, J.:

The Case

For resolution is a petition for clemency dated 4 September 2017 filed by Ignacio S. Del Rosario (petitioner), a former Cash Clerk III of the Records and Miscellaneous Matter Section, Checks Disbursement Division, Financial Management Office-Office of the Court Administrator.

The Facts

On 19 April 2011, the Office of the Court Administrator (OCA) was furnished a copy of the letter-complaint dated 6 April 2011 of Noel G. Primo

(Primo), a retired Sheriff of the Regional Trial Court, Branch 65, Bulan, Sorsogon. The letter-complaint of Primo was addressed to petitioner, demanding the return of a sum of money that was entrusted to petitioner by him.

According to Primo, he entrusted to petitioner the amount of ₱34,000.00, because petitioner offered to help him process his retirement papers. Out of the said amount, ₱32,421.43 would be paid by petitioner to the Court's cashier, while the balance would belong to petitioner as a token for the services that he had rendered to Primo. From December 2010 to January 2011, petitioner assured Primo that his retirement papers were already being processed by the Government Service Insurance System (GSIS). In fact, petitioner even blamed the GSIS for the slow processing of Primo's retirement papers. However, Primo later on discovered that his retirement papers were still with the Court and that petitioner did not actually pay his financial liability with the Court. Hence, Primo demanded from petitioner that he return the money that was entrusted to him. Unfortunately, Primo's demands were unheeded by petitioner. In his letter-complaint, Primo accused petitioner of dishonesty, grave abuse of trust and confidence, and conduct extremely prejudicial to the best interest of the service.

Court Administrator Jose Midas P. Marquez indorsed the matter for appropriate action to the Office of Administrative Services (OAS). The OAS directed petitioner to file his comment on the letter-complaint of Primo. In his undated letter, petitioner admitted that he received ₱34,000.00 from Primo and explained that he failed to pay ₱32,421.43 to the Court's cashier, because he was compelled to use the money to pay for his son's hospitalization. He averred that he was already able to pay Primo's financial liability with the Court, with the help of his friends and relatives, and thus, he requested that the matter be considered as settled and that the complaint against him be dismissed. On his part, Primo manifested that he no longer desired to continue his complaint against petitioner, because of the restitution and payment made by petitioner.

After evaluating Primo's letter-complaint and petitioner's comment, the OAS recommended that petitioner be held liable for serious dishonesty and conduct prejudicial to the best interest of the service. According to the OAS, petitioner's subsequent act of finally paying Primo's financial liability with the Court was only a mere afterthought, because of his fear of a possible administrative sanction. For his penalty, the OAS recommended that petitioner be suspended from office for six months, without pay, with a stern warning that a repetition of the same or similar acts shall be dealt with more severely.



On 6 September 2011, the Court En Banc rendered a Decision agreeing with the finding of the OAS that petitioner's actions constituted dishonesty and demonstrated conduct prejudicial to the best interest of the service. However, instead of accepting the recommended penalty imposed by the OAS, the Court imposed the penalty of dismissal from the service. The dispositive portion of the subject Decision reads:

WHEREFORE, premises considered, we hereby DISMISS Ignacio S. Del Rosario, Cash Clerk III of the Records and Miscellaneous Matter Section, Checks Disbursement Division, [Financial] Management Office-Office of the Court Administrator, from the service for Dishonesty and Conduct Prejudicial to the Best Interest of the Service. The penalty of dismissal shall carry the accessory penalties of forfeiture of all his retirement benefits, except accrued leave benefits, and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations.¹

On 19 September 2011, petitioner's wife and children filed a pleading for compassion and mercy with the Court. In their pleading for compassion and mercy, petitioner's wife and children prayed that petitioner be afforded one last chance to be reinstated, considering his 33 years of service in the Judiciary or, if reinstatement was no longer feasible, that petitioner be allowed to retire from the service, in order for him to avail of the financial benefits therefrom. In a Resolution dated 20 September 2011, the Court En Banc resolved to treat the pleading for compassion and mercy filed by petitioner's wife and children as a motion for reconsideration of the En Banc Decision dated 6 September 2011 and deny with finality the said motion for reconsideration, there being no substantial matters raised to warrant the reversal of the challenged Decision.

On 4 October 2011, petitioner himself filed a motion for reconsideration of the En Banc Decision dated 6 September 2011. In his motion for reconsideration, petitioner did not question the finding of his guilt, fully admitting his transgressions. Petitioner noted that, up until his dismissal, he had served the Judiciary for 33 years and, except for his administrative case, he had not been charged with any other misdemeanor, during his entire period of employment. In a Resolution dated 11 October 2011, the Court En Banc resolved to deny with finality the said motion for reconsideration, there being no substantial matters raised to warrant the reversal of the questioned Decision.

Petitioner filed a letter dated 3 November 2016 requesting the Court for clemency in connection with the En Banc Decision dated 6 September 2011. Through a letter dated 29 November 2016, the Office of the Chief Justice referred to then Clerk of Court Felipa B. Anama for appropriate action the letter dated 3 November 2016 of petitioner. In a Resolution dated

¹ Rollo, p. 39.



6 June 2017, the Court En Banc resolved to note the letter dated 3 November 2016 of petitioner and direct the OCA to comment on the said letter.

In compliance with the Resolution of the Court En Banc dated 6 June 2017, the OCA, in its Memorandum dated 19 July 2017, recommended that the letter dated 3 November 2016 of petitioner requesting clemency in connection with the En Banc Decision dated 6 September 2011 be granted.

After almost a year since he filed his letter requesting the Court for clemency, petitioner filed a petition for clemency dated 4 September 2017 with the Court. Through a letter dated 29 November 2017, the Office of the Chief Justice referred to then Clerk of Court Felipa B. Anama for appropriate action the petition for clemency dated 4 September 2017 of petitioner. In a Resolution dated 10 January 2018, the Court En Banc resolved to refer to the OCA for comment the petition for clemency dated 4 September 2017 of petitioner.

The OCA's Recommendation

In compliance with the Resolution of the Court En Banc dated 10 January 2018, the OCA, in its Memorandum dated 24 January 2018, commented that the petition for clemency dated 4 September 2017 of petitioner is a rehash of his earlier letter dated 3 November 2016 requesting the Court for clemency. The OCA further noted that, in its Memorandum dated 19 July 2017, it had already recommended that petitioner's request for clemency in his letter dated 3 November 2016 be granted, to wit:

This Office has reexamined respondent Del Rosario's case and notes certain circumstances that can be considered in his petition for judicial clemency.

First, respondent Del Rosario has rendered thirty-three (33) years of government service and this is the first and only administrative case filed against him. Second, respondent Del Rosario does not question the decision dismissing him from the service. In fact, he has owned up to his mistakes and claims to have learned his lesson. Third, he was dismissed five (5) years ago and regrets what he did because he saw how his family suffered as a consequence. He claims that he is a much better person now, with so much faith in God. Lastly, due to old age, he is suffering from various illnesses that require medical treatment which he cannot afford due to poverty caused by his unemployment and dismissal with forfeiture of retirement benefits.

Considering the aforementioned circumstances and respondent Del Rosario's repentance for what he did, his plea for clemency merits compassion from the Court. For humanitarian reasons, this Office recommends that respondent Del Rosario be allowed to reap the fruits of



his thirty-three (33) years of government service particularly his retirement benefits to support him and his medical needs.²

In its Memorandum dated 24 January 2018, the OCA recommended that the request of petitioner for clemency contained in his petition for clemency dated 4 September 2017 in connection with the En Banc Decision dated 6 September 2011 be granted.

The Court's Ruling

The Court disagrees with the recommendation of the OCA in its Memorandum dated 24 January 2018.

Judicial clemency is an act of mercy removing any disqualification from the erring official. It is not a privilege or a right that can be availed of at any time. The Court will only grant it in meritorious cases. Proof of reformation and a showing of potential and promise are considered as indispensable requirements to the grant of judicial clemency.³

In *Re: Letter of Judge Augustus C. Diaz, Metropolitan Trial Court of Quezon City, Branch 37, Appealing for Judicial Clemency*,⁴ the Court laid down the following guidelines in resolving requests for judicial clemency:

1. There must be proof of remorse and reformation. x x x. A subsequent finding of guilt in an administrative case for the same or similar misconduct will give rise to a strong presumption of non-reformation.
2. Sufficient time must have lapsed from the imposition of the penalty to ensure a period of reformation.
3. The age of the person asking for clemency must show that he still has productive years ahead of him that can be put to good use by giving him a chance to redeem himself.
4. There must be a showing of promise x x x as well as potential for public service.
5. There must be other relevant factors and circumstances that may justify clemency.⁵

In support of the instant petition for clemency, petitioner merely rehashed his averments in his letter dated 3 November 2016 requesting the Court for clemency in connection with the En Banc Decision dated 6 September 2011. In both his letter and petition for clemency, petitioner did not question the subject Decision, which dismissed him after 33 years of

² Id. at 111.

³ *Re: Letter of Judge Augustus C. Diaz, Metropolitan Trial Court of Quezon City, Branch 37, Appealing for Judicial Clemency*, 560 Phil. 1, 5 (2007).

⁴ 560 Phil. 1 (2007).

⁵ Id. at 5-6.

service for dishonesty and conduct prejudicial to the best interest of the service. Petitioner commented that, after his dismissal from the service, he has repented and continues to be remorseful for his past misdeeds, because of the adverse effects they had on his family.

In his petition for clemency, petitioner attached a Certificate of Good Moral Standing dated 30 August 2017 issued by the Office of the Sangguniang Barangay of Sta. Cruz, Naga City, certifying that he has been an active partner in various programs and activities conducted in their barangay, and a Certificate of Good Moral Standing dated 30 August 2017 issued by the San Lorenzo Ruiz de Manila Parish, Abella, Naga City, affirming his earnest efforts to become a renewed and devoted Catholic and attesting that he has been an active member of the Parish Lay Ministry. Nevertheless, the aforementioned do not sufficiently prove that he has already fully and effectively reformed himself after his dismissal from the service meriting the Court's liberality. Being an active member in his barangay and Parish Lay Ministry does not necessarily show true repentance and reformation, considering that what is at stake is the integrity of the Judiciary.

While petitioner claims that he has been remorseful for his actions, there is no strong indication that he has creditably reformed himself. It is incumbent upon petitioner to prove in sufficient terms how he has effectively reformed himself, given his past transgressions which tarnished the Court's image and reputation. Moreover, petitioner likewise failed to present any evidence to demonstrate his promise and potential for public service. To emphasize, proof of reformation and a showing of potential and promise are considered as indispensable requirements to the grant of judicial clemency.⁶

Time and time again, the Court has repeatedly held that the image of a court of justice is mirrored in the conduct, official or otherwise, of its personnel. All court personnel are mandated to adhere to the strictest standards of honesty, integrity, morality, and decency in both their professional and personal conduct. In order to preserve the good name and integrity of the courts of justice, they must exemplify the highest sense of honesty and integrity not only in the performance of their official duties but also in their private dealings with other people.⁷

It cannot be gainsaid that, as an OCA employee, it was expected from petitioner to set a good example for other court employees in the standards of propriety, honesty, and fairness. It was incumbent upon petitioner to practice a high degree of work ethic and to abide by the exacting principles of ethical conduct and decorum in both his professional and private dealings.

⁶ *Re: Letter of Judge Augustus C. Diaz, Metropolitan Trial Court of Quezon City, Branch 37, Appealing for Judicial Clemency*, supra.

⁷ *Floria v. Sunga*, 420 Phil. 637, 650 (2001).




Clearly, petitioner failed to meet the aforesaid standards, having placed his personal interest over the interest of Primo, who trusted him wholeheartedly as a friend and confidant.

Blatantly overlooking the Court's interest in the preservation and promotion of the integrity of the Judiciary, petitioner misappropriated the money that was entrusted to him by Primo and made misrepresentations to cover up his misappropriation of the entrusted sum. Petitioner did not even immediately return the money he misappropriated, despite Primo's demands. Petitioner's proffered reason for the misappropriation of the money that was entrusted to him by Primo hardly warrants any showing of mercy and compassion from the Court. In addition, while petitioner eventually paid Primo's financial liability with the Court, it was pointed out by the OAS that such restitution was only borne from petitioner's fear of possible administrative sanction.

Considering the abovementioned circumstances, the Court believes that its compassion has to yield to the higher demand of upholding the integrity of the Judiciary. In the case at bar, what is being considered is the preservation and promotion of the public's confidence in the integrity of the Judiciary. It cannot be denied that petitioner took advantage of the trust and confidence ascribed to him as a court employee. Petitioner's infractions tainted the public perception of the image of the Court, casting serious doubt as to the ability of the Court to effectively exercise its power of administrative supervision over its employees. In an array of cases, the Court has come down hard and wielded the rod of discipline against members of the Judiciary who have failed to meet the exacting standards of judicial conduct. Judicial clemency is not a privilege or a right that can be availed of at any time. It will only be granted by the Court if there is a showing that it is merited.⁸ A plea for judicial clemency will not be heeded when to grant such a request would put the good name and integrity of the courts of justice in peril.

WHEREFORE, the petition for clemency dated 4 September 2017 of petitioner Ignacio S. Del Rosario is hereby **DENIED**.


SO ORDERED.




ANTONIO T. CARPIO
Senior Associate Justice

⁸ *Concerned Lawyers of Bulacan v. Villalon-Pornillos*, A.M. No. RTJ-09-2183, 14 February 2017, 817 SCRA 440, 446.

WE CONCUR:



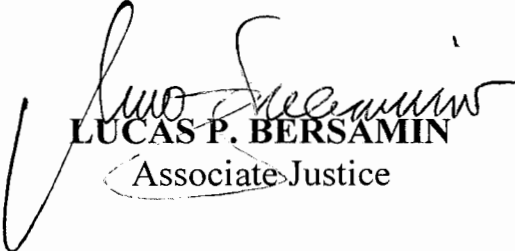
PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



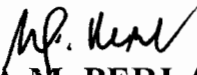
DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



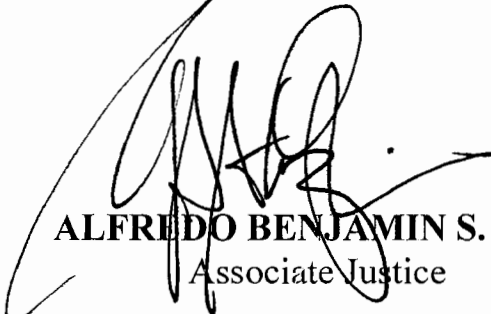
ESTELA M. PERLAS-BERNABE
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MARVIC M.V.F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL R. MARTIRES
Associate Justice



NOEL GIMENEZ TIJAM
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice

Alexander G. Gesmundo
ALEXANDER G. GESMUNDO
Associate Justice

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[Signature]
CLERK OF THE SUPREME COURT