

Republic of the Philippines  
Supreme Court  
Manila

EN BANC

LYDIA C. COMPETENTE and A.M. No. P-16-3578  
DIGNA TERRADO, [Formerly A.M. No. 14-6-203-  
*Complainants, RTC*]

Present:

PERALTA, C.J.,  
PERLAS-BERNABE,  
LEONEN,  
CAGUIOA,  
GESMUNDO,  
REYES, J. JR.,  
HERNANDO,  
CARANDANG,  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
LOPEZ,  
DELOS SANTOS,  
GAERLAN, and  
BALTAZAR-PADILLA, \* JJ.

- *versus* -

CLERK III MA. ROSARIO A.  
NACION, REGIONAL TRIAL  
COURT (RTC), BRANCH 22,  
MALOLOS CITY, BULACAN,

*Respondent.*

Promulgated:

September 1, 2020.

X-----X

RESOLUTION

INTING, J.:

For resolution is the written-complaint<sup>1</sup> dated May 26, 2014 filed by Lydia C. Competente (Competente) and Digna C. Terrado (Terrado)

\* On leave.

<sup>1</sup> *Rollo*, pp. 9-10.

(collectively, complainants) against Ma. Rosario A. Nacion (respondent), Clerk III of Branch 22, Regional Trial Court (RTC) of Malolos City, Bulacan for violation of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act.

*The Antecedents*

In the 3<sup>rd</sup> Indorsement<sup>2</sup> dated June 16, 2014, Executive Judge Ma. Theresa V. Mendoza-Arcega (EJ Arcega) of RTC Malolos City, Bulacan transmitted to the Office of the Court Administrator (OCA) for appropriate action the 2<sup>nd</sup> Endorsement<sup>3</sup> dated June 11, 2014 of Presiding Judge Grace V. Ruiz (Judge Ruiz) of the RTC relative to the Incident Report<sup>4</sup> dated May 27, 2014 prepared by Branch Clerk of Court Eddielyn L. Gatdula (BCC Gatdula).

In the Incident Report, BCC Gatdula narrated that on March 6, 2014, when a commitment order was issued in Criminal Case No. 965-M-2014 entitled *People of the Philippines v Aldie Terrado y Cope*, respondent offered to Competente and Terrado, the live-in partner and mother of Aldie C. Terrado (accused), respectively, her assistance in securing bail for the accused. Respondent represented herself to complainants as the clerk-in-charge of criminal cases whose function is to secure and/or assist the accused in securing bail which includes receiving cash bonds.<sup>5</sup>

On May 14, 2014, complainants filed a Motion to Reduce Bond,<sup>6</sup> which the respondent received. On May 16, 2014, complainants entrusted to respondent the amount of ₱20,500.00 representing 50% of the bail recommended.<sup>7</sup> However, despite having received the amount of ₱20,500.00 for the cash bond, respondent failed to secure the release of the accused. Respondent explained that it was because the RTC had not yet granted their Motion to Reduce Bond. Consequently, complainants brought the matter to the attention of BCC Gatdula who, in turn, referred it to Presiding Judge Grace V. Ruiz (Judge Ruiz). Thus, Judge Ruiz explained to complainants that she could not have acted on their Motion

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.* at 3.

<sup>4</sup> *Id.* at 5-7.

<sup>5</sup> *Id.* at 5

<sup>6</sup> *Id.* at 12-13.

<sup>7</sup> *Id.* at 14.

to Reduce Bond because there was no motion on file. With that, Competente showed to Judge Ruiz a copy of their motion which was stamped "received" and a mimeographed paper evidencing respondent's receipt of ₱20,500.00. Thereafter, Judge Ruiz instructed BCC Gatdula to prepare an order granting the subject motion based on the copy presented to her by complainants, and to assist complainants in formalizing their complaints against respondent. Subsequently, Judge Ruiz brought the matter to the attention of EJ Arcega.<sup>8</sup>

During the meeting called by Judge Ruiz in her office, Terrado demanded respondent to return the ₱20,500.00 since she needed it to post the required bail. Respondent said that the amount would be returned the following day. However, respondent did not make good her promise as she only gave ₱10,500.00 to complainants. Initially, Competente refused to receive the amount tendered as it was not the exact amount that they demanded from respondent. Later on, Competente accepted the amount of ₱10,500.00 on the condition that respondent would execute a letter-receipt evidencing the amount paid.<sup>9</sup>

In compliance with the Memorandum<sup>10</sup> dated May 27, 2014 issued by EJ Arcega directing respondent to comment on the allegations, respondent submitted a letter<sup>11</sup> dated June 6, 2014 manifesting that she had no intention to defraud complainants.<sup>12</sup>

Meanwhile, in the Resolution<sup>13</sup> dated March 18, 2015 in A.M. No. 15-01-26-RTC, the Court, Third Division, dropped respondent from the rolls effective May 2, 2014. The resolution was based on the Report dated December 10, 2014 of the Office of the Court Administrator (OCA) which found that respondent had not been submitting her Daily Time Records and had been absent without approved leave since May 2, 2014.<sup>14</sup>

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<sup>8</sup> *Id.* at 57-58.

<sup>9</sup> *Id.* at 58.

<sup>10</sup> *Id.* at 21.

<sup>11</sup> *Id.* at 22-23.

<sup>12</sup> *Id.* at 23.

<sup>13</sup> *Id.* at 30-31.

<sup>14</sup> *Id.* at 30.

*Report and Recommendation of the OCA*

The OCA, in its Report and Recommendation<sup>15</sup> dated August 1, 2016, found respondent guilty of Grave Misconduct and declared that respondent would have been dismissed from the service had she not been earlier dropped from the rolls pursuant to A.M. No. 15-01-26-RTC. The OCA instead recommended that: (a) respondent's civil service eligibility be cancelled; (b) her retirement and other benefits, except accrued leave credits, be forfeited; and (c) that she be perpetually disqualified from reemployment in the government agency as well as in government-owned and -controlled corporations.<sup>16</sup>

In the Resolution<sup>17</sup> dated October 10, 2016, the Court resolved to:

1. NOTE the complaint filed by Lydia C. Competente and Digna Terrado against respondent Rosario A. Nacion, Clerk III, Regional Trial Court (RTC), Br. 22, Malolos City, Bulacan for violation of R.A. No. 3019 or the Anti-Graft and Corrupt Practices Act, and the Incident Report dated 11 June 2014 by Atty. Eddielyn L. Gatdula, Branch Clerk of Court, RTC, Br. 22, Malolos City, Bulacan;
2. RE-DOCKET the instant complaint against respondent Ma. Rosario A. Nacion, Clerk III, RTC, Br. 22, Malolos City, Bulacan as a regular administrative matter; and
3. REQUIRE the parties to MANIFEST to this Court whether they are willing to submit this matter for resolution on the basis of the pleadings filed within ten (10) days from notice.<sup>18</sup>

In a Resolution<sup>19</sup> dated June 19, 2017, the Court resolved to deem as served the Resolution dated October 10, 2016 sent to complainants and await respondent's manifestation. In the Resolution<sup>20</sup> dated January 31, 2018, the Court resolved to require BCC Gatdula to furnish the Court with the correct and current address of respondent.

In compliance with the Resolution dated January 31, 2018, Nestor

<sup>15</sup> *Id.* at 57-61; signed by Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Jenny Lind R. Aldecoa-Delorino.

<sup>16</sup> *Id.* at 61.

<sup>17</sup> *Id.* at 62-63.

<sup>18</sup> *Id.* at 62.

<sup>19</sup> *Id.* at 70-71.

<sup>20</sup> *Id.* at 76-77.

S. Dela Rosa, Jr., Officer-in-Charge of the RTC submitted a letter<sup>21</sup> dated June 4, 2018 stating that he is not in a position to either ascertain or verify the complete and current address of respondent considering that per available records, the latter is locally known to be a resident of Pinagpala St., Tonsuya, 1473, Malabon City. However, per respondent's January 12, 2012 Personal Data Sheet, it appears that she has another address, which is at B13 L3 Belmont Parc Vill., Caypombo, Sta. Maria, Bulacan.<sup>22</sup>

### *The Issue Before the Court*

The primordial issue for the Court's resolution is whether respondent is guilty of Grave Misconduct.

### *The Court's Ruling*

At the outset, while respondent was ordered to be dropped from the rolls "effective May 2, 2014"<sup>23</sup> and the instant complaint was filed only on May 26, 2014 or 24 days after respondent was retroactively dropped from the rolls, the Court notes that jurisdiction over the instant administrative complaint has already attached considering that respondent was deemed a *de facto* employee of the Court when the written-complaint was filed on May 26, 2014.

For one, the Resolution which ordered the dropping of respondent from the rolls was issued only on March 18, 2015.<sup>24</sup> For another, the records of the case clearly show that respondent was still active in the plantilla records at the time that the instant complaint was filed.<sup>25</sup>

"Jurisprudence is replete with rulings that in order for the Court to acquire jurisdiction over an administrative proceeding, the complaint must be filed during the incumbency of the respondent public official or employee. This is because the filing of an administrative case is predicated on the holding of a position or office in the government service. *However, once jurisdiction has attached, the same is not lost by*

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<sup>21</sup> *Id.* at 78.

<sup>22</sup> *Id.*

<sup>23</sup> See Third Division, Court's Resolution dated March 18, 2015, *id.* at 30-31.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 47.

*the mere fact that the public official or employee was no longer in office during the pendency of the case.”<sup>26</sup>* Consequently, the supervening Resolution retroactively dropping respondent from the rolls is not a reason to exculpate her from administrative liability.

The Code of Conduct for Court Personnel<sup>27</sup> (the Code), *inter alia*, provides that court personnel serve as sentinels of justice. Hence, any act of impropriety on their part immeasurably affects the honor and dignity of the judiciary and the people’s confidence in it.

Section 2, Canon I of the Code prohibits 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.”

On the other hand, Section 2(e), Canon III of the Code commands court personnel to never “solicit or accept any gift, loan, gratuity, discount, favor, hospitality or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court personnel in performing official duties.”

In light of the foregoing, the Court concurs with the OCA’s recommendation that respondent be held guilty of Grave Misconduct.

Grave Misconduct is defined as “a serious transgression of some established and definite rule of action (such as unlawful behavior or gross negligence by the public officer or employee) that tends to threaten the very existence of the system of administration of justice an official or employee serves.”<sup>28</sup> It is a grave offense punishable by dismissal for the first offense.

Under Section 58(a), Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service on the administrative disabilities inherent in certain penalties, the penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in the government,

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<sup>26</sup> *Office of the Court Administrator v. Grageda*, 706 Phil. 15, 21 (2013). Citations omitted.

<sup>27</sup> Administrative Matter No. 03-06-13-SC.

<sup>28</sup> *Ramos v. Limeta*, 650 Phil. 243, 248 (2010), citing *Fernandez, Jr. v. Gatan*, 474 Phil. 21, 26 (2004).

unless otherwise provided in the decision.<sup>29</sup>

As found by the OCA, respondent admitted that she received the amount of ₱20,500.00 from complainants so that she could pay the required bond for the accused at the Office of the Clerk of Court. Furthermore, respondent also confessed that she was not able to return the exact amount of ₱20,500.00 upon demand by the complainants despite her failure to process the bail bond.<sup>30</sup>

It is well-settled in our jurisdiction that the court personnel's sole act of receiving money from litigants, whatever the reason may be, constitutes grave misconduct,<sup>31</sup> and no matter how nominal the amount involved is, such act erodes the respect for law and the courts.<sup>32</sup>

It is true that when the present administrative case was filed before the OCA, through the 3<sup>rd</sup> Indorsement<sup>33</sup> of EJ Arcega, respondent was no longer an employee of the judiciary as she was dropped from the rolls effective May 2, 2014. However, this fact, as correctly held by the OCA, does not render the present complaint moot.

Following the ruling in *Pagano v. Nazarro, Jr.*,<sup>34</sup> even if dismissal from service may no longer be imposed on the respondent, there are other penalties which may be imposed on her, namely, the disqualification to hold any government office and the forfeiture of benefits.

**WHEREFORE**, the Court **ADOPTS** the Report and Recommendation of the Office of the Court Administrator. Accordingly, respondent Ma. Rosario A. Nacion, Clerk III, Branch 22, Regional Trial Court of Malolos City, Bulacan is found **GUILTY** of Grave Misconduct and would have been meted the penalty of dismissal from the service had she not been earlier dropped from the rolls effective May 2, 2014 pursuant to the Resolution dated March 18, 2015 in A.M. No. 15-01-26-

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<sup>29</sup> *Concerned Citizen v. Catena*, 714 Phil. 114, 124 (2013).

<sup>30</sup> *Rollo*, p. 59.

<sup>31</sup> *Villahermosa, Sr., et al. v. Sarcia, et al.*, 726 Phil. 408, 416 (2014).

<sup>32</sup> *Rodriguez v. Eugenio*, 550 Phil. 78, 94 (2007), citing *Office of the Court Administrator v. Gaticales*, A.M. No. MTJ-91-528, May 8, 1992, 208 SCRA 508, 515 and *Office of the Court Administrator v. Barron*, 358 Phil. 12, 28 (1998).

<sup>33</sup> *Rollo*, p. 1.

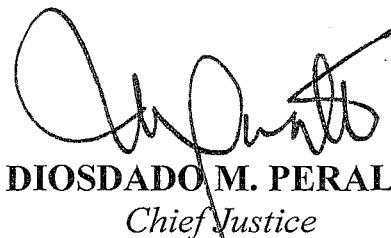
<sup>34</sup> 560 Phil. 96 (2007).

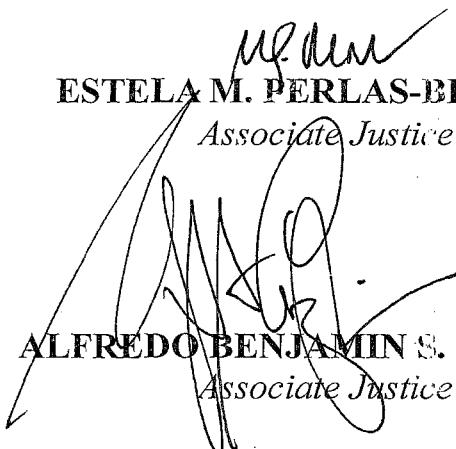
RTC. Consequently, her civil service eligibility is hereby **CANCELLED**, her retirement and other benefits, except accrued leave credits, are hereby **FORFEITED**, and she is **PERPETUALLY DISQUALIFIED** from reemployment in any government agency or instrumentality, including any government-owned and -controlled corporation.

**SO ORDERED.**

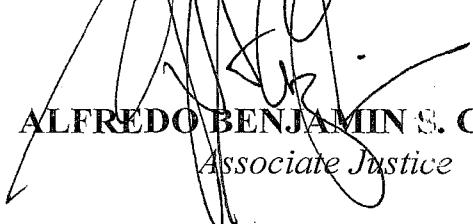
  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:

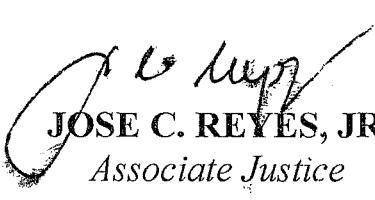
  
**DIOSDADO M. PERALTA**  
*Chief Justice*

  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*

  
**MARVIC M.V.F. LEONEN**  
*Associate Justice*

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*

  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**JOSE C. REYES, JR.**  
*Associate Justice*

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

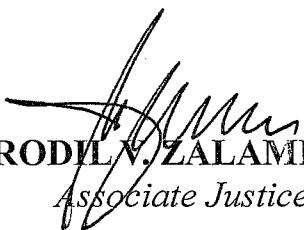
  
**ROSMARY D. CARANDANG**  
*Associate Justice*

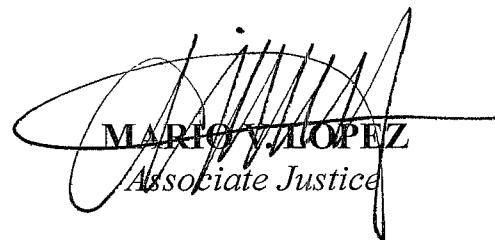
  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

Resolution

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A.M. No. P-16-3578 [Formerly  
A.M. No. 14-6-203-RTC]

  
**RODIL V. ZALAMEDA**  
*Associate Justice*

  
**MARIO V. LOPEZ**  
*Associate Justice*

  
**EDGARDO L. DELOS SANTOS**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

(On leave)  
**PRISCILLA J. BALTAZAR-PADILLA**  
*Associate Justice*

