

EN BANC

[A.M. No. P-19-4021 [Formerly OCA IPI No. 15-4410-P], January 15, 2020]

**HON. CARMELITA SARNO-DAVIN, PRESIDING JUDGE, REGIONAL TRIAL COURT, DIGOS, DAVAO DEL SUR, BRANCH 19,
COMPLAINANT, VS. ROSALITA L. QUIRANTE, CLERK III,
REGIONAL TRIAL COURT, DIGOS, DAVAO DEL SUR, BRANCH 19,
RESPONDENT.**

DECISION

PER CURIAM:

This is a Complaint^[1] filed by Presiding Judge Carmelita Sarno-Davin, (*complainant*), Regional Trial Court of Digos, Davao del Sur, Branch 19 (*RTC*) against Rosalita L. Quirante (*respondent*), Clerk III, of the same court before the Office of the Court Administrator (*OCA*), for Dishonesty, Misconduct, and Neglect of Duty.

Antecedents

Complainant alleged that sometime in the 3rd week of May 2014, Mercedita P. Dela Sierra (*Dela Sierra*), secretary of the defense counsel in Criminal Case Nos. 240(06) and 241(06), both entitled *People of the Philippines v. Alviola, et al.*, approached Atty. Louise Marie Therese B. Escobido (*Atty. Escobido*), Clerk of Court of the RTC. Dela Sierra sought to substitute cash bonds for the property bonds that were posted with the RTC for the accused's bail therein. The property bonds were constituted over several lands, particularly, Transfer Certificate of Title (*TCT*) No. T-161470 and T-161471, and Tax Declaration Nos. E-G-G-25928 and 02-00002-00454 and 02-00009-004987 (*subject titles and tax declarations*).^[2]

However, when Atty. Escobido checked the case records, she could not find the subject titles and tax declarations. Thus, she inquired from respondent, who was in charge of the records of the criminal cases, regarding the whereabouts of the titles. Respondent denied any knowledge of the titles and tax declarations. Thus, Atty. Escobido informed complainant of the situation. Complainant initiated an investigation on the matter. Respondent eventually admitted that she delivered the subject titles and tax declarations to Atty. Leonardo Suarion (*Atty. Suarion*), the accused's former counsel in the said criminal cases. When asked to explain in writing, respondent stated in her Letter dated June 2, 2014, to wit:

To be honest, your Honor, the late Atty. Leonardo Suarion asked me to help his client, that's why I used the tax declaration of my properties to be used as the property bond for all the accused and in order to protect me, I just reflected the title numbers of the property which was submitted by the accused to Atty. Suarion in the Order of release, so that the accused will be compelled to make good of their undertakings,

because the accused were not personally known by the undersigned. I also did not reflect that tax declaration of the property in my name in the Order, because per computation the amount of the two (2) property bonds is already more than the required bailbond.^[3]

Complainant further alleged that after the discovery of the bonding anomaly, she ordered an inventory of the RTC's records. The inventory uncovered that respondent failed to transmit to the Court of Appeals (CA) the records of three (3) criminal cases that had long been completed, namely, Criminal Case No. 309(00), entitled *People v. Buenaflor*, Criminal Case No. 70(05), entitled *People v. Rodrigo Esma*, and Criminal Case No. 66(05), entitled *People v. Enciso*.^[4]

When directed to explain, respondent shifted the blame to the court stenographers who were no longer connected with the RTC. She alleged that they failed to transcribe their stenographic notes. Respondent also blamed the party litigants because they purportedly failed to pay for the photocopying of the records.^[5]

Further investigations showed that respondent apparently concealed the fact that the accused filed, in Criminal Case Nos. 70(05) and 66(05), separate notices of appeal and that the said appeals were given due course by the RTC. However, due to the concealment of respondent, Atty. Escobido erroneously issued a "Certificate of Non-Appeal" in Criminal Case No. 66(05).^[6]

Thus, complainant charges respondent with dishonesty and misconduct for unlawfully taking the subject titles in Criminal Case Nos. 240(06) and 241(06) without authorization from the RTC. Complainant also charges respondent with neglect of duty because she failed to transmit the records of Criminal Case Nos. 309(00), 70(05), and 66(05). She even concealed the timely separate notices of appeal filed by the accused in Criminal Case Nos. 70(05) and 66(05).

In her Comment,^[7] respondent admitted taking the subject titles and tax declarations from the case records without any authority and delivering them to the office of the late Atty. Suarior. However, she denied that her actions were compelled by any sinister motive or corruption and, instead, asserted that she did it out of compassion for the accused, who are mostly farm laborers.^[8]

As to the charge of neglect of duty, she apologized and attributed it to her inability to complete the compilation of the Transcript of Stenographic Notes (TSN) of the witnesses and secure the signature of the former court stenographers in the duplicate TSN. She claimed that it was the usual practice in the office for the appellants to shoulder the expenses for the reproduction of the four (4) sets of certified true copies of the TSN. However, she encountered a dilemma when the counsel for the accused told her that his clients were indigent. Thus, she could not charge them for the said fees. It was only when she brought the matter with Atty. Escobido and complainant that the records of the criminal cases were finally transmitted to the CA in Cagayan de Oro (CA Cagayan de Oro).^[9]

With respect to Criminal Case No. 66(05), where a "Certificate of Non-Appeal" was erroneously issued by Atty. Escobido, respondent defended that she honestly believed that there was no notice of appeal filed in that case. As it turned out, the notice of appeal was inadvertently attached to the records of a different case. She

attributed her lapses to her old age and her preoccupation with several domestic issues.^[10]

Respondent begged the Court's compassion for her transgressions. She prayed that her twenty-five (25) years of service in the Judiciary and the fact that she had not been previously involved in any irregularity be taken into account by the Court.^[11]

Meanwhile, the records of the Docket and Clearance Division of the OCA showed that respondent had two previous administrative complaints against her. In A.M. No. P-94-1010,^[12] respondent was charged with gross ignorance of the law and negligence in the performance of duty and was reprimanded by the Court. In another case, A.M. No. P-16-3461,^[13] respondent was found administratively liable for simple neglect of duty and was reprimanded by the Court with a stern warning that the commission of the same or similar acts in the future shall be dealt with more harshly.^[14]

OCA Report and Recommendation

In its Report and Recommendation^[15] dated October 24, 2019, the OCA found that respondent committed grave misconduct and simple neglect of duty. It held that respondent's acts of taking the subject titles and tax declarations in *custodia legis* and delivering them to the late Atty. Suarion are highly improper and constitute grave misconduct. It also found that respondent even attempted to conceal her transgressions by not reflecting in the court records that she took the said documents. The OCA also held that respondent's failure to transmit the records of the case to the CA Cagayan de Oro constituted neglect of duty. However, it only found respondent guilty of simple neglect of duty because there was no evidence that such failure was willful and intentional on her part.^[16]

The OCA recommended that respondent be administratively penalized for the most serious offense, grave misconduct, that carries a penalty of dismissal from service. It disregarded the plea of leniency of respondent because this was her third infraction. She was previously administratively held liable in the two cases of A.M. No. P-94-1010 and A.M. No. P-16-3461. Thus, the extreme penalty of dismissal must be imposed upon respondent.^[17]

The Court's Ruling

The Court adopts and accepts the Report and Recommendation of the OCA, with modification on the administrative offenses committed.

In order to sustain a finding of culpability for the administrative offenses, substantial evidence is required, or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The standard of substantial evidence is satisfied when there is reasonable ground to believe that a person is responsible for the misconduct complained of.^[18]

Grave Misconduct

Misconduct is a transgression of some established and definite rule of action, more

particularly, unlawful behavior or gross negligence by the public officer. 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. 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. [19]

In the Matter of the Loss of One (1) Tamaya Transit, An Exhibit in Criminal Case No. 193, [20] a court employee took out a wristwatch from *custodia legis*, which was a case exhibit. The Court found him guilty of dishonesty and grave misconduct and directed his dismissal from the service with forfeiture of his retirement benefits and with prejudice to reinstatement in any branch of the government.

Recently, in *Zarate-Fernandez v. Lovendino*, [21] the Court found a court aide liable for grave misconduct because he unlawfully took the drug specimens stored in the court's vault, which were exhibits in a pending case. For tarnishing the image and integrity of the bench, the employee's name was perpetually stripped from the rolls of the men and women of the Judiciary.

In this case, the Court finds that the complaint sufficiently proved with substantial evidence that respondent committed grave misconduct. Respondent admitted that she removed the subject titles and tax declarations as property bonds in Criminal Case Nos. 240(06) and 241(06) and delivered these official court documents to Atty. Suario, former counsel of accused. These documents are under *custodia legis* and should not have been taken by any court employee for personal reasons and without authorization from the court. Respondent even concealed her acts by making it appear that the property bonds of the accused were intact. She also admitted that she tampered with the RTC Order dated October 5, 2006, by not reflecting that the tax declarations of her properties were used for the property bonds of these cases to hide her transgressions.

The explanation she gave for unlawfully taking;the subject titles and tax declarations in *custodia legis* is utterly insufficient. She claimed that she delivered the said documents in order to help the accused, who are mostly labor farmers. However, this is completely unsubstantiated arid it is absolutely unjustified to tamper with court records without proper authority. Thus, respondent's taking of the court documents is. a grave misconduct because it is an unlawful behavior or intentional wrongdoing; and there was a clear intent to violate the law when she took great steps to conceal her offenses.

Gross Neglect of Duty

The Court, however, modifies the finding of the OCA of simple neglect of duty against respondent to gross neglect of duty.

Neglect of duty is the failure of a public official or employee to give attention to a task expected of him. The public official or employee of the Judiciary responsible for such act or omission cannot escape the disciplinary power of this Court. Simple neglect of duty is contrasted from gross neglect. Gross neglect of duty refers to