

EN BANC

[A.M. No. RTJ-96-1336, June 02, 2020]

JOCELYN C. TALENS-DABON, COMPLAINANT, VS. JUDGE HERMIN E. ARCEO, REGIONAL TRIAL COURT, BRANCH 43, SAN FERNANDO, PAMPANGA, RESPONDENT.

RE: PETITION FOR PAYMENT OF RETIREMENT BENEFITS.

RESOLUTION

PERLAS-BERNABE, J.:

For the Court's resolution is the Petition for Payment of Retirement Benefits^[1] filed by respondent Judge Hermin E. Arceo (Arceo), former Presiding Judge of the Regional Trial Court of San Fernando, Pampanga, Branch 43, seeking to claim the retirement benefits for his services rendered in the Judiciary.

In 1996, Arceo was dismissed from the service after being found to have committed lewd and lustful acts against complainant Atty. Jocelyn C. Talens-Dabon (complainant). The dispositive portion of the Decision^[2] dated July 25, 1996 reads:

WHEREFORE, Judge Hermin E. Arceo is hereby DISMISSED from the service for gross misconduct and immorality prejudicial to the best [interest] of the service, **with forfeiture of all retirement benefits** and with prejudice to re-employment in any branch of the government, including government-owned and controlled corporations.

SO ORDERED.^[3]

Arceo filed a Petition for Judicial Clemency^[4] in 2012 seeking to lift the ban against his re-employment in the government service and to be allowed to receive his accrued leave credits. The Court granted the petition in a Resolution^[5] dated November 20, 2012 (2012 Resolution) pursuant to the guidelines^[6] for resolving requests for judicial clemency. It added that based on paragraph 1, Section 11, Rule 140 of the Rules of Court, accrued leave credits are exempt from the forfeiture of benefits.^[7]

In 2018, Arceo filed the instant petition requesting the release of his retirement benefits for humanitarian consideration. He stated that he is in dire need of funds for his medical expenses and other basic necessities of life, considering that he had already reached the age of 77.^[8] In claiming benefits, he cited Section 3 of Republic Act No. (RA) 6683,^[9] the last portion of which reads: "any appointive official or employee who has previously been found guilty in an administrative proceeding and whose rank or salary has been reduced shall be paid on the basis of his last salary."

The Court notes that Arceo is not qualified to claim the benefits under Section 3 of RA 6683 because he was not administratively sanctioned with a mere reduction of his salary or rank but was, in fact, dismissed from the service.^[10]

Notably, RA 6683 applies only in cases of early retirement, voluntary separation, and involuntary separation due to government reorganization. In particular, Section 11 thereof states that the law applies to "[o]fficials and employees who were **previously separated** from the government service **not for cause** but as a result of the reorganization[.]" As correctly pointed out by the Office of the Chief Attorney in its Report^[11] dated March 14, 2019 (OCAAt Report), Arceo was separated for cause, having been dismissed from the service due to gross misconduct and immorality prejudicial to the best interest of service.^[12] Hence, RA 6683 finds no application in Arceo's case as to justify the release of his retirement benefits. The petition may be dismissed on this ground alone.

The Court nevertheless proceeds to examine whether it should release Arceo's retirement benefits pursuant to its power to grant clemency.

Judicial clemency is an act of mercy removing any disqualification from the erring judge.^[13] Its grant rests on the sound discretion of the Court.^[14] In the 2012 Resolution, Arceo was granted judicial clemency after sufficiently showing his remorse and reformation after his dismissal from the service,^[15] but the clemency extended to him back then **was limited only to the lifting of his disqualification from re-employment in any branch of the government**^[16] because he then did not pray for the release of his retirement benefits. He now comes before the Court asking for such release of benefits.

Forfeiture of retirement benefits is one of the sanctions that may be imposed on judges who are found guilty of a serious charge. Pursuant to Section 11, Rule 140 of the Rules of Court, the Court may forfeit a judge's retirement benefits in whole or in part, depending on the circumstances of each case. The provision reads:

Section 11. *Sanctions.* — A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. *Provided, however,*

That the forfeiture of benefits shall in 110 case include accrued leave credits;

x x x x (Underscoring supplied)

This sanction for a serious administrative charge is consistent with the accessory penalty provided under Section 57^[17] of the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS),^[18] to wit: "[t]he penalty of dismissal shall carry with it cancellation of eligibility, perpetual disqualification from holding public office, bar from taking civil service examinations, and *forfeiture of retirement benefits.*"

To recall, Arceo was found administratively liable in 1996 for committing lewd and lustful acts, the last and most severe of which was summarized by the investigating justice as follows:

Although outraged [by respondent's poem], complainant respectfully asked permission to leave while putting the poem in the pocket of her blazer. She then proceeded towards the outer room where she was surprised to find the door closed and the chair holding it open now barricaded it. The knob's button was now in a vertical position signifying that door was locked.

Complainant was removing the chair when respondent walked to her in big strides asking her for a kiss. Seconds later he was embracing her and trying to kiss her. Complainant evaded and struggled and pushed respondent away. Then panicking, she ran in the direction of the filing cabinets. Respondent caught up with her, embraced her again, pinned her against the filing cabinets and pressed the lower part of his body against hers. Complainant screamed for help while resisting and pushing respondent. Then she ran for the open windows of the inner room. But before she could reach it[,] respondent again caught her. In the ensuing struggle, complainant slipped and fell on the floor, her elbows supporting the upper part of her body while her legs were outstretched between respondent's feet. Respondent then bent his knees in a somewhat sitting (squatting) position, placed his palms on either side of her head and kissed her on the mouth with his mouth open and his tongue sticking out. As complainant continued to struggle, respondent suddenly stopped and sat on the chair nearest the door of the inner room with his face red and breathing heavily. Complainant angrily shouted "*maniac, demonyo, bastos, napakawalanghiya ninyo*" Respondent kept muttering "I love you" and was very apologetic offering for his driver to take her home. Complainant headed for the Maple Room where, when she entered, she was observed by Bernardo Taruc and Yolanda Valencia to be flushed in the face and with her hair disheveled.^[19]

This happened in October 1995, a few months after the Anti-Sexual Harassment Act of 1995^[20] came into effect. In recognition of the gravity of the offense, the framework on administrative cases involving sexual harassment charges has been strengthened both within and outside the judiciary. Notably, a few years after the decision against Arceo, the Civil Service Commission (CSC) released Administrative Disciplinary Rules on Sexual Harassment Cases,^[21] which was eventually integrated in the 2017 RACCS. Thereafter, the Court released the *Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary*.^[22]

With these developments in mind, and weighing all attendant factors, the Court resolves to deny the present petition. While the Court has allowed dismissed judges to enjoy a portion of their retirement benefits pursuant to a plea for judicial clemency,^[23] its grant depends on the unique circumstances of each case. After all, the grant of judicial clemency, which most certainly, includes its parameters and extent, rests exclusively within the sound discretion of the Court pursuant to its

authority under the Constitution.^[24] It should be noted that, in this case, Arceo was already extended judicial clemency eight (8) years ago, *i.e.*, lifting of the disqualification from reemployment in the government service, which enabled him to earn and save enough for his retirement. As the Court sees it, releasing the forfeited benefits would be too much leniency considering the severity of the infraction committed. The Court has, in numerous cases, wielded the rod of discipline against members of the judiciary who have fallen short of the exacting standards of judicial conduct.^[25] Judicial clemency, as an act of mercy, should be balanced with the preservation of public confidence in the courts.^[26]

WHEREFORE, the Court resolves to **DENY** the Petition for Payment of Retirement Benefits filed by respondent Judge Hermin E. Arceo.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, S.A.J., Caguioa, Gesmundo, Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, and Gaerlan, JJ., concur.
Leonen, J., see separate concurring opinion
Delos Santos, J., on leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on June 2, 2020 a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on September 17, 2020 at 10:07 a.m.

Very truly yours,

(Sgd.) EDGAR O. ARICHETA
Clerk of Court

^[1] *Rollo* (Vol. 1), pp. 452-455.

^[2] *Talens-Dabon v. Arceo*, 328 Phil. 692 (1996).

^[3] *Talens-Dabon v. Arceo*, *id.* at 709; emphasis supplied.

^[4] *Rollo* (Vol. 1), pp. 403-415.

^[5] *Talens-Dabon v. Arceo*, 699 Phil. 1, 8 (2012).

^[6] See *Re: Letter of Judge Augustus C. Diaz, Metropolitan Trial Court of Quezon City, Branch 37, Appealing for Clemency*, 560 Phil. 1, 5-6 (2007).

[7] See *Talens-Dabon v. Arceo*, supra note 5, at 5-8.

[8] *Rollo* (Vol. 1), p. 453.

[9] Entitled "AN ACT PROVIDING BENEFITS FOR EARLY RETIREMENT AND VOLUNTARY SEPARATION FROM THE GOVERNMENT SERVICE, AS WELL AS INVOLUNTARY SEPARATION OF CIVIL SERVICE OFFICERS AND EMPLOYEES PURSUANT TO VARIOUS EXECUTIVE ORDERS AUTHORIZING GOVERNMENT REORGANIZATION AFTER THE RATIFICATION OF THE 1987 CONSTITUTION APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on December 2, 1998. See also Supreme Court Administrative Circular No. 07-89 entitled "IMPLEMENTING GUIDELINES OF REPUBLIC ACT NO. 6683, dated December 2, 1988," approved on January 13, 1989.

[10] *Talens-Dabon v. Arceo*, supra note 2, at 709.

[11] *Rollo* (Vol. 1), pp. 472-480.

[12] *Id.* at 475.

[13] *Concerned Lawyers of Bulacan v. Judge Villalon-Pornillos*, 805 Phil. 688, 691 (2017).

[14] See *Que v. Atty. Revilla*, 746 Phil. 406, 413 (2014).

[15] *Talens-Dabon v. Arceo*, supra note 5, at 6.

[16] *Talens-Dabon v. Arceo*, supra note 5, at 8.

[17] Section 57. *Administrative Disabilities Inherent in Certain Penalties*. — The following rules shall govern in the imposition of accessory penalties:

- a. The penalty of dismissal shall carry with it cancellation of eligibility, perpetual disqualification from holding public office, bar from taking civil service examinations, and forfeiture of retirement benefits. x x x x (Underscoring supplied)

[18] Civil Service Commission (CSC) Resolution No. 1701077, approved on July 3, 2017.

[19] *Talens-Dabon v. Arceo*, supra note 2, at 700-701.

[20] RA 7877 entitled "AN ACT DECLARING SEXUAL HARASSMENT UNLAWFUL IN THE EMPLOYMENT, EDUCATION OR TRAINING ENVIRONMENT, AND FOR OTHER PURPOSES," approved on February 14, 1995.

[21] CSC Resolution No. 01-0940, approved on May 21, 2001.