

EN BANC

[A.M. No. P-06-2279 (Formerly OCA IPI No. 06-2452-P), June 06, 2017]

**MAURA JUDAYA AND ANA AREVALO, COMPLAINANTS, VS.
RAMIRO F. BALBONA, UTILITY WORKER I, OFFICE OF THE CLERK
OF COURT, REGIONAL TRIAL COURT OF CEBU CITY,
RESPONDENT.**

DECISION

PERLAS-BERNABE, J.:

For the Court's resolution is an Amended Affidavit^[1] dated May 29, 2006 filed by complainants Maura Judaya and Ana Arevalo (complainants) against respondent Ramiro F. Balbona (respondent), Utility Worker I, Office of the Clerk of Court, Regional Trial Court of Cebu City (RTC), for Grave Misconduct.

The Facts

In the Amended Affidavit, complainants alleged that they are the mother and live-in partner, respectively, of one Arturo Judaya (Arturo), who was arrested purportedly for the use of illegal drugs. Complainants were then told that respondent could facilitate Arturo's release in exchange for P30,000.00. Thus, at 9:30 in the morning of February 24, 2005, complainants went to the Palace of Justice, Capitol, Cebu City to deliver the said amount to respondent, who then assured them that he would help secure Arturo's release. Respondent, however, failed to perform his undertaking; thus the demand to return the money. Out of the P30,000.00, respondent only returned P2,500.00 to complainants; hence, the instant complaint.^[2]

In his defense, respondent essentially denied the accusations against him, maintaining that as a mere utility worker, he could not in any way facilitate the release of a detention prisoner. He likewise denied personally knowing complainants and receiving money from them. In this relation, respondent pointed out that he is stationed at the Cebu City Palace of Justice, while the case of Arturo was pending at Branch 55 of the RTC, which was located in Mandaue City. Finally, respondent asserted that it is contrary to human experience for complainants to simply hand over a large amount of money to a complete stranger; that complainants' act of doing so for the release of a prisoner was illegal and showed their lack of moral fitness; and that complainants have no one to blame but themselves for the consequences of their act.^[3]

In light of the seriousness of the accusations against respondent, the Court, as recommended by the Office of the Court Administrator (OCA), redocketed the case as a regular administrative matter and referred the same to the Executive Judge of

the RTC for investigation, report, and recommendation.^[4]

In a Report^[5] dated December 21, 2015, the Executive Judge recommended respondent's dismissal on the ground of Grave Misconduct and Conduct Unbecoming of a Government Employee. It was disclosed that pending the instant proceedings, respondent stopped reporting for work, had been declared absent without official leave (AWOL), had resigned since September 20, 2007,^[6] and eventually, his position was occupied by another person.^[7] Despite the foregoing, the Executive Judge opined that the foregoing did not render the instant case moot and academic.^[8] Subsequently, it was found that respondent's act of receiving money from complainants on the pretext that the latter will obtain a favorable ruling constitutes Grave Misconduct for which he should be held administratively liable.^[9]

The OCA's Report and Recommendation

In a Memorandum^[10] dated October 19, 2016, the OCA recommended that respondent be found guilty of Grave Misconduct, an offense punishable by dismissal from service under Section 2 (e), Canon III, of the Code of Conduct for Court Personnel.^[11] It found substantial evidence showing that respondent indeed solicited and received money from complainants. However, since such penalty could no longer be imposed on respondent due to his separation from service during the pendency of the investigation against him, the OCA recommended that he be, instead, meted the accessory penalties appurtenant to the same, namely: cancellation of civil service eligibility, forfeiture of retirement benefits; and perpetual disqualification from holding public office and from taking civil service examinations.^[12]

The Issue Before the Court

The primordial issue for the Court's resolution is whether or not respondent should be held administratively liable for Grave Misconduct.

The Court's Ruling

The Court adopts the findings and recommendations of the OCA.

Preliminarily, it is worthy to emphasize that the precipitate resignation of a government employee charged with an offense punishable by dismissal from service does not render moot the administrative case against him. The Court's pronouncement in *Pagano v. Nazarro, Jr.*^[13] is instructive on this matter, to wit:

In *[OCA] v. Juan [(478 Phil: 823, 828-829 [2004])]*, this Court categorically ruled that **the precipitate resignation of a government employee charged with an offense punishable by dismissal from the service does not render moot the administrative case against him. Resignation is not a way out to evade administrative liability**

when facing administrative sanction. The resignation of a public servant does not preclude the finding of any administrative liability to which he or she shall still be answerable.

A case becomes moot and academic only when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits of the case. **The instant case is not moot and academic, despite the petitioner's separation from government service. Even if the most severe of administrative sanctions – that of separation from service – may no longer be imposed on the petitioner, there are other penalties which may be imposed on her if she is later found guilty of administrative offenses charged against her, namely, the disqualification to hold any government office and the forfeiture of benefits.**

Moreover, this Court views with suspicion the precipitate act of a government employee in effecting his or her separation from service, soon after an administrative case has been initiated against him or her. An employee's act of tendering his or her resignation immediately after the discovery of the anomalous transaction is indicative of his or her guilt as flight in criminal cases.^[14] (Emphases and underscoring supplied)

Here, the Executive Judge of the RTC and the OCA correctly pointed out that respondent's failure to report for work, which eventually caused him to be declared in AWOL, and his resignation during the pendency of the investigation against him did not render this administrative case moot and academic, especially so that he is being charged with an offense punishable by dismissal from service.

In this light, the Court shall now delve into respondent's administrative liability.

"Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate [grave] misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former."^[15]

In order to sustain a finding of administrative culpability for such offense, only substantial evidence is required, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion.^[16]

A judicious review of the records of this case reveals substantial evidence showing that respondent indeed solicited and received the amount of P30,000.00 from complainants, on the pretext that he will facilitate the release of the latter's relative who is a detention prisoner. This is a direct violation of Section 2, Canon I and