

## EN BANC

**[ A.M. No. CA-15-31-P (formerly OCA I.P.I. No. 13-218-CA-P), June 16, 2015 ]**

**COMMITTEE ON SECURITY AND SAFETY, COURT OF APPEALS,  
COMPLAINANT, VS. REYNALDO V. DIANCO - CHIEF SECURITY,  
JOVEN O. SORIANOSOS - SECURITY GUARD 3, AND ABELARDO P.  
CATBAGAN - SECURITY GUARD 3, RESPONDENTS.**

### DECISION

#### PER CURIAM:

We resolve in this Decision the administrative case for dishonesty and misconduct against the respondent Reynaldo V. Dianco (*Dianco*); for simple dishonesty and simple misconduct against the respondent SG3 Joven O. Sorianosos (*Sorianosos*); and for simple neglect of duty against the respondent SG3 Abelardo P. Catbagan (*Catbagan*).

#### The Factual Antecedents

Dianco was the former Chief of the Court of Appeals (CA) Security. Sorianosos and Catbagan, on the other hand, were among Dianco's subordinates.

On March 19, 2011, the respondents together with other members of the CA Security Group went on an excursion at the Village East Clubhouse in Cainta, Rizal. Catbagan was tasked to head the Food Committee while Sorianosos was assigned to head the Money Collection and Budget and Games Committee.

During the planning and in the morning of the actual excursion, Justice Normandie B. Pizarro (*Pizarro*), then Chairman of the Committee on Security and Safety, emphatically reminded the respondents to monitor the use of the funds. He also informed them of the subdivision's policy prohibiting the drinking of alcoholic beverages in the premises.

To make it easier to keep track of the transactions, each participant was given a meal stub worth Three Hundred Pesos (P300.00) with the food payment to be based on the number of meal stubs surrendered to the food concessionaire.

Records show, however, that Dianco and Sorianosos, violated prohibition on the consumption of alcohol in the premises. There were also irregularities in the use of funds.

In particular, the food concessionaire's initial computation only amounted to P16,850.00, broken down as follows:

Stubs	= Php
	12,500.00

Snacks (siopao and mami for 87 persons at Php 50.00 each)	= <u>4,350.00</u>
<b>Total</b>	<b>Php 16,850.00</b>

When the receipt was subsequently issued, the amount indicated in the bill suspiciously increased to P21,840.00, broken down as follows:

Stubs	= Php 16,850.00
Snacks	= Php 4,550.00
Beverage	= <u>Php 440.00</u>
<b>Total</b>	<b>Php 21,840.00</b>

An initial audit conducted after the excursion revealed that food expenses only amounted to P16,850.00. Moreover, the "snacks" valued at P4,550.00, and the "beverage" amounting to P440.00 should not have been billed separately as they were already included in the cost of the meal stubs previously distributed to the participants.<sup>[1]</sup>

Furthermore, only one clay pot was used in the *paluan ng palayok*, instead of two, contrary to the written insertions of Sorianosos in the computer-generated liquidation report,<sup>[2]</sup> which resulted in a padding of the expenses by P400.00. Likewise, the audit uncovered that the amount of P1,043.00 was included in Sorianosos' liquidation report to allow Dianco to recover the expense for buying the Fundador.<sup>[3]</sup>

During the preliminary investigation conducted by the Committee on Security and Safety Fact Finding Panel, Dianco and Sorianosos admitted that they violated the policy against the drinking of alcoholic beverages.<sup>[4]</sup> Dianco also confirmed that he charged the cost of the Fundador and the bottles of beer (*billed as "beverage" in the food concessionaire's receipt*) to the excursion funds.<sup>[5]</sup> **Dianco also expressed the possibility that he might have authorized the concessionaire to change the billed amount from P16,850.00 to P21,840.00 but cannot exactly remember what transpired as he was already drunk.**<sup>[6]</sup>

Sorianosos, on the other hand, claimed that he made written insertions in the computer-generated liquidation report **pursuant to the instructions of, and under pressure from, Dianco.**

On April 6, 2011, the Committee on Security and Safety relieved Dianco as Chief of CA Security without prejudice to any administrative charge that may be initiated against him by the CA Office of the Clerk of Court.<sup>[7]</sup> Catbagan and Sorianosos were likewise admonished for their actions.<sup>[8]</sup> Subsequently, on May 2, 2011, Dianco was assigned to the Property & Supply Management Division.<sup>[9]</sup>

On May 31, 2011, the CA Office of the Clerk of Court formally charged the

respondents<sup>[10]</sup> and indicted Dianco for dishonesty for: (1) authorizing the written insertions in the computer-generated liquidation report; and (2) padding the food bill from P16,850.00 to P21,840.00.<sup>[11]</sup> Dianco was likewise charged with misconduct for: (1) violating the “no drinking” policy; and (2) instigating his peers to violate the “no drinking” policy.<sup>[12]</sup>

Sorianosos was charged with simple dishonesty for obeying the illegal instruction of Dianco. He was also charged with simple misconduct for drinking alcohol.<sup>[13]</sup> Catbagan, on the other hand, was indicted for simple neglect of duty for having failed to perform his duty as head of the Food Committee of the excursion.<sup>[14]</sup>

The respondents filed their answers separately. In his answer,<sup>[15]</sup> Dianco argued that the funds were private funds sourced from donors and the participants of the excursion. Dianco further specified that the food expenses amounted to P18,050.00. Of the said amount, P14,550.00 was obtained from the funds given by Congresswoman Catalina Leonen-Pizarro.<sup>[16]</sup> Allegedly, Dianco paid the remaining balance of P4,000.00 out of his own pocket. He also averred that he could not be charged with dishonesty as the alleged offense happened outside the CA premises and while the participants were off duty.<sup>[17]</sup>

With regard to the misconduct charge, Dianco alleged that there was no established rule or policy, which prohibited CA employees from drinking alcohol outside the office premises.<sup>[18]</sup> Moreover, he claimed that the policy was only verbally communicated to them on the day of the excursion after the liquor had already been purchased.<sup>[19]</sup>

Sorianosos narrated that he only followed the instruction of Dianco to make written insertions in the computer-generated liquidation report, and thereby padded the expenses for the *paluan ng palayok* by P400.00.<sup>[20]</sup> He also denied any knowledge of the spurious receipts submitted by the respondent Dianco. Moreover, he insisted that he only partook of the liquor at the end of the excursion.<sup>[21]</sup>

Catbagan denied being negligent in handling the Food Committee.<sup>[22]</sup> He insisted that it was his superior, Acting Security Chief Regala (*Regala*), who transacted directly with the food concessionaire. He claimed that he did not bother to participate in the transactions out of respect for Regala.<sup>[23]</sup>

Before the conclusion of the formal investigation, the chairmanship of the Security and Safety Committee was transferred from CA Justice Pizarro to CA Justice Ricardo R. Rosario (*Rosario*).<sup>[24]</sup> Then on December 7, 2011, CA Justice Rosario, together with Associate Justice Romeo F. Barza, and Associate Justice Eliju A. Ybanez, requested Honorable CA Presiding Justice, Honorable Andres B. Reyes Jr. (Reyes), to refer the present case to the Committee on Ethics and Special Concerns since that committee has proper jurisdiction on the matter.<sup>[25]</sup>

On July 10, 2012, the Committee on Ethics and Special Concerns took cognizance of the present administrative case and instructed the CA Assistant Clerk of Court to immediately continue with the proceedings.<sup>[26]</sup> Pursuant to that resolution, the CA

Assistant Clerk of Court immediately set the case for continuation of the formal investigation.<sup>[27]</sup>

On August 8, 2013, following the conclusion of the proceedings, the CA Assistant Clerk of Court submitted its Report<sup>[28]</sup> finding Dianco administratively liable for dishonesty and misconduct and recommending the penalty of six (6) months suspension against him.<sup>[29]</sup> In mitigating the recommendation to a six-month suspension, instead of dismissal, the CA Assistant Clerk of Court took note of Dianco's length of service, his admission, and humanitarian considerations.<sup>[30]</sup>

The CA Assistant Clerk of Court likewise found Sorianosos administratively liable for simple dishonesty and simple misconduct and recommended a penalty of 30-day suspension against him.<sup>[31]</sup> Again, in recommending the tempered penalty of 30-day suspension, the CA Assistant Clerk of Court considered Sorianosos's length of service, his admission and apology, the fact that it was his first offense, his previous awards for government service, and humanitarian considerations.<sup>[32]</sup>

Catbagan was likewise found administratively liable for simple neglect of duty. Instead of recommending the imposable penalty of one (1) month and one (1) day to six (6) months suspension, the CA Assistant Clerk of Court imposed the penalty of reprimand in view of his admission, length of service, and the fact that it was his first offense.<sup>[33]</sup>

The Report<sup>[34]</sup> was later submitted to then CA Justice Reyes, through the Committee on Ethics and Special Concerns.<sup>[35]</sup> On October 31, 2013, and upon approving the Report,<sup>[36]</sup> CA Justice Reyes indorsed the present administrative case to this Court.<sup>[37]</sup> On January 16, 2014, this Court, through Court Administrator Jose Midas P. Marquez, required the respondents to file their Comment on the Report.<sup>[38]</sup>

In his Comment, the respondent Sorianosos claims that he had already served the penalty imposed upon him by the Committee on Security and Safety, which admonished him for his acts.<sup>[39]</sup> Meanwhile, Catbagan denies being negligent as head of the Food Committee because it was his superior, Chief Regala, who directly transacted with the food concessionaire.<sup>[40]</sup> He also insists that he performed his duties to the best of his ability under the circumstances.<sup>[41]</sup> For instance, he advanced from his own pocket amounts for the purchase of food for the excursion.<sup>[42]</sup> He also allegedly checked the meal stubs and distributed these to the attendees.<sup>[43]</sup>

Dianco, in his Comment,<sup>[44]</sup> claims that he should only be charged with simple dishonesty.<sup>[45]</sup> He also avers that he could not be charged with misconduct as the imputed acts are not related to his official duties.<sup>[46]</sup> Moreover, he claims he was denied due process since the Report only relied on the preliminary findings of the Committee on Security and Safety.<sup>[47]</sup> In addition, he narrates that he has served whatever penalty may be imposed under the circumstances in view of his transfer to the Property and Management Division on May 2, 2011.<sup>[48]</sup>

## **Our Ruling**

### ***Procedural Issue***

Among all the respondents, only respondent Dianco raised procedural issues in the present administrative case. In particular, respondent Dianco averred that he was denied due process since the CA Assistant Clerk of Court largely relied upon the preliminary findings of the Committee on Safety and Security in making its recommendations in the Report.

We find no merit in his contention. The essence of due process in administrative proceedings is the opportunity to explain one's side or seek a reconsideration of the action or ruling complained of. In *Department of Health v. Camposano*,<sup>[49]</sup> which restated the guidelines laid down in *Ang Tibay v. Court of Industrial Relations*,<sup>[50]</sup> we held that due process in administrative proceedings requires observance of the following cardinal principles: (1) the right to present one's case and submit supporting evidence must be observed; (2) the tribunal must consider the evidence presented; (3) the decision must have some basis to support itself; (4) there must be substantial evidence; (5) *the decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected*; (6) in arriving at a decision, the tribunal must have acted on its own consideration of the law and the facts of the controversy and must not have simply accepted the views of a subordinate; and (7) the decision must be rendered in such manner that respondents would know the reasons for it and the various issues involved.<sup>[51]</sup>

As long as the parties are given the opportunity to be heard before judgment is rendered, the demands of due process are sufficiently met.<sup>[52]</sup>

In the present case, Dianco cannot claim that he was deprived of due process. Records show that Dianco submitted to the jurisdiction of the CA Assistant Clerk of Court by participating in the proceedings before it. He was duly represented by counsel. He filed his answer<sup>[53]</sup> during the formal investigation and Comment on the Report upon the request of this Court.<sup>[54]</sup> He further submitted documentary evidence on his behalf. His active participation in every step of the investigation and this Court's consideration of his arguments effectively removed any badge of procedural deficiency, if there was any, and satisfied the due process requirement.

### ***Substantive Issues***

#### **I. Dishonesty as an Administrative Offense**

In a long line of cases, dishonesty has been defined as the disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.<sup>[55]</sup> Although dishonesty covers a broad spectrum of conduct, Civil Service Commission (CSC) Resolution No. 06-0538<sup>[56]</sup> set the criteria for determining the severity of dishonest acts.

CSC Resolution No. 06-0538 recognizes that dishonesty is a grave offense generally