

THIRD DIVISION

[G.R. No. 204738, July 29, 2015]

GLEND A RODRIGUEZ-ANGAT, PETITIONER, VS. GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENT.

DECISION

VILLARAMA, JR., J.:

At bar is a petition^[1] under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision^[2] of the Court of Appeals (CA) dated May 31, 2012 and its Resolution^[3] dated December 4, 2012 in CA-G.R. SP No. 116748 which reversed and set aside the Resolutions^[4] of the Civil Service Commission (CSC) and affirmed the Decision^[5] of respondent Government Service Insurance System (GSIS) dated September 23, 2009 finding petitioner guilty of grave misconduct with the penalty of dismissal from the service with the attendant accessory penalties.

Petitioner Glenda Rodriguez-Angat was a former employee of the GSIS holding the position of Acting Senior Social Insurance Specialist detailed at the then Loans Department of the then Social Insurance Group. Petitioner was assigned a personal IP address with a Terminal ID to enable her to perform her functions and access GSIS databases.^[6] Respondent GSIS is a government owned and controlled corporation duly organized and existing pursuant to Commonwealth Act No. 186, as amended.

Respondent charged petitioner with Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations consequent to the following antecedent facts:

The case stemmed from the audit conducted by the Internal Audit Services Group (IASG) from 27 to 28 January, 2006 of salary loans with outstanding balances but tagged as fully paid in the central office. One of the cases uncovered was that of Ms. Sy, of the Manila Health Department, with CM No. 215839, who retired from government service on 26 April 2003. Apparently, the gross amount of her loan was [P]135,608.00 but the posted payments were only [P]56,301.00 at the time the same was tagged in the database as fully paid. Based on the Certification issued by the Information Technology Services Group (ITSG) dated 20 July 2006, signed by Managers Ethelda A. Antonio of the Systems Administration Department (SADMD) and Eduardo B. Naraval, Network and Telecom Department (NTD), **the Terminal ID used in the tagging of the salary loan of Ms. Sy as fully paid was A7C4 which belonged to respondent Angat.**^[7]

In a Show Cause Memorandum^[8] dated February 20, 2007, respondent required petitioner to explain her participation in the erroneous tagging of the loan of Sy. Petitioner replied via a verified memorandum dated February 28, 2007 with the GSIS Investigation Department where she denied any participation in the erroneous tagging of the salary loan and claimed that she was never assigned to the Loans Division which was responsible for the tagging of the loan accounts as "fully paid".

^[9] Petitioner further claimed that even if the tagging was done using her terminal, such fact alone does not necessarily prove that it was she herself who personally committed the erroneous tagging.

Respondent was not persuaded by petitioner's explanation and filed against the latter Administrative Case No. 07-010 on July 26, 2007 for Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations with the following material allegations, viz.:

x x x x

*On November 17, 2003, Respondent used, or allowed others to use, her terminal with terminal ID **A7C4** to tag as fully paid the salary loan of Mercy M. Sy using the operator code **VPAO** which belonged to Ms. Vicenta P. Abelgas.*

The full payment tagging was erroneous as the salary loan amount was Php135,608.00, whereas the posted payments as of the date of tagging only amounted to Php56,301.00.

The use of Respondent's computer terminal in such erroneous tagging is prohibited under SVP Order No. 02-99, which imposes upon computer terminal owners the duty to take extra care and measure in protecting their terminals from distortion, tampering or unauthorized use by anyone.

WHEREFORE, Respondent is hereby directed to submit two (2) copies of her written answer under oath to the charge against her within five (5) working days from receipt hereof and to present whatever evidence she may so desire in support of her defense. x x x^[10]

In an Answer^[11] dated August 8, 2007, petitioner denied all the allegations hurled against her. She maintained that she did not use nor allowed others to use her computer terminal to tag as fully paid the salary loan of Sy. She further pointed out that "[a]s the Formal Charge admits, the tagging was made using the operator code **VPAO** belonging to **MS. VICENTA P. ABELGAS** and not to her."^[12] Petitioner also claimed that the terminal with ID A7C4 which was used to tag as fully paid the salary loan of Sy did not belong to her. She showed an Official Memorandum dated November 25, 2003 to prove that her terminal ID was A7BN and not A7C4. She also posited that the erroneous tagging could have been due to a computer system error or to procedural lapses in the claims transactions of Sy.

The pre-hearing conference and formal investigation of the case ensued. After the proceedings, respondent issued its assailed Decision^[13] dated September 23, 2009 finding petitioner guilty of Grave Misconduct and meting upon her the penalty of dismissal with the attendant accessory penalties. Respondent ruled, among others, that petitioner was unable to refute "the ITSG Certification showing that she is the owner of the computer terminal with ID 'A7C4'"^[14] and which ownership carried with it the presumption of control over its usage. The assailed September 23, 2009 Decision held, viz.:

The respondent's postulation, that the tagging is attributable to computer error or to procedural lapses of the claims processor cannot be given credence as it is bereft of any supporting evidence. It is axiomatic that a party has the burden of proof to establish his claim or defense. While the prosecution satisfactorily discharged its burden of proving that full payment tagging was done using the respondent's computer terminal as shown by the ITSG Certification, the respondent failed to prove that such transaction was due to technical glitches only and that it was not deliberately done by herself or any other individual.

The evidence presented by the respondent to prove her claim that terminal ID "A7C4" has not been assigned to her is inconclusive at best. Ms. Garcia, her own witness, testified that she did not know if the respondent was assigned terminal IDs other than "A7BN". x x x [R]espondent has failed to discharge her burden of submitting sufficient evidence to refute the ITSG Certification showing that she is the owner of the computer terminal with ID "A7C4".

x x x x

Under [SVP Order No. 02-99], the computer terminal owner carries the greater accountability as the presumed author of any transaction done on his or her terminal even assuming, for arguments' sake, there is sharing of both the USER ID and computer terminal. Office Order No. 2-99 creates a presumption of control by the owners over their respective USER IDs and computer terminals. Practically, however, a USER ID is useless without a computer terminal. Conversely, anybody who has complete access to a computer terminal can use the same for any transaction using his or her own USER ID or somebody else's. Thus, where a USER ID is used on another person's computer terminal, it behooves the computer terminal owner to prove lack of complicity with the owner of the USER ID, or lack of opportunity to perform the subject transaction.

There is no showing that there was no way for the respondent to perform the unlawful and fraudulent full payment tagging using her computer terminal. That Ms. Abelgas has been identified as the owner of USER ID "VPAO" does not necessarily mean that the respondent had no involvement in the performance of the subject transaction. Her ownership of the computer terminal carries with it the presumption of control. x x x Indeed, there is nothing in the evidence presented that would support, or tend to support, a conclusion that the respondent had no control over her

computer terminal or opportunity to commit the irregularity.

x x x The respondent failed not only in proving that somebody else, aside from herself, used her computer terminal for the purpose of authoring a crime, she also failed to prove that she could not have authored the said crime.

Verily, that the respondent used her computer terminal for the unwarranted and fraudulent tagging, despite being aware of its repercussions on the processing of the member's claims and benefits is a clear manifestation of her mal-intent, more than just an unhealthy regard for her duty and responsibility to protect her computer terminal from all forms of unauthorized use. She is, therefore, liable for Grave Misconduct, and not just for Simple Neglect of Duty or Violation of Reasonable Office Rules and Regulations.^[15]

The GSIS justified its finding of Grave Misconduct notwithstanding the fact that a lesser charge of Simple Neglect of Duty and/or Violation of Reasonable Office Rules and Regulations was formally charged. The GSIS held that its ruling is legally plausible since there is enough evidence to prove that the acts of herein petitioner constituted Grave Misconduct. The GSIS further asserted that it is the court that decides the designation of a crime after it has studied the facts, and that charges in an administrative proceeding need not be as precise as those in a criminal prosecution. The GSIS thus ruled, *viz.*:

WHEREFORE, respondent Glenda Rodriguez-Angat is hereby found guilty of Grave Misconduct and meted the penalty of dismissal with all the attendant accessory penalties.^[16]

Petitioner appealed the GSIS Decision to the CSC raising the following issues: whether she may be held liable for Grave Misconduct; and, whether there is substantial evidence to find her guilty of Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations.^[17]

On May 4, 2010, the CSC issued Resolution No. 100896^[18] granting petitioner's appeal, *viz.*:

WHEREFORE, the appeal of Glenda Rodriguez-Angat, Acting Senior Social Insurance Specialist, Loans Department, Social Insurance Group, Government Service Insurance System (GSIS), is hereby **GRANTED**. The Decision dated September 23, 2009 of GSIS President and General Manager Winston F. Garcia, finding Rodriguez-Angat guilty of Grave Misconduct and imposing upon her the penalty of dismissal from the service with all the attendant accessory penalties, is **SET ASIDE**. Accordingly, Glenda Rodriguez-Angat is **REINSTATED** to her former position and shall be paid her back salaries and other benefits corresponding to the period of her illegal termination.^[19]

The CSC explained that petitioner may not be held liable for Grave Misconduct, viz.:

x x x Pertinent is the case of **People vs. Ramos (296 SCRA 559)** where the Supreme Court ruled, as follows:

"An accused person cannot be convicted of an offense higher than that with which he is charged in the complaint or information on which he is tried. It matters not how conclusive and convincing the evidence of guilt may be, but an accused cannot be convicted of any offense, unless it is charged in the complaint or information on which he is tried or is necessarily included therein. He has a right to be informed of the nature of the offense with which he is charged before he is put on trial. To convict an accused of a higher offense than that charged in the complaint or information on which he is tried would be an unauthorized denial of that right."^[20]

The CSC further ratiocinated in its Resolution, viz.:

In the instant case, Rodriguez-Angat was formally charged with Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations, which under the Uniform Rules on Administrative Cases in the Civil Service (URACCS) are only less grave and light offenses, respectively. Hence, applying the abovementioned pronouncement of the Supreme Court, Rodriguez-Angat cannot be held guilty of the higher or grave offense of Grave Misconduct. To do so would constitute a denial of her right to be informed of the nature of the offense with which she was charged.

As regards the issue of whether substantial evidence exists to find Rodriguez-Angat guilty of Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations, the Commission likewise rules in the negative. **Records show that the GSIS failed to sufficiently prove that Rodriguez-Angat did the tagging of the salary loan account of Mercy M. Sy of the Manila Health Department as fully paid despite its outstanding balance or that she allowed others to use her computer terminal in the performance of such act.** What was merely established is that the loan account of Sy was tagged as fully paid using Terminal ID A7C4 which allegedly belonged to Rodriguez-Angat. The GSIS, however, failed to present any evidence to prove that, indeed, Terminal ID A7C4 belongs to Rodriguez-Angat. At this juncture, it is worth stressing that a party who alleges a fact has the burden of proving it. (*Dela Cruz vs. Sison*, 451 SCRA 754), and that allegations must be proven by sufficient evidence – mere allegation is not evidence (**Ramoran vs. Jardine CMG Life Insurance Co., Inc., 326 SCRA 208**).^[21]

Respondent moved for reconsideration^[22] of CSC Resolution No. 100896. On