

EN BANC

[A.M. OCA IPI No. 02-1321-P, July 16, 2013]

**CONCERNED CITIZEN, COMPLAINANT, VS. NONITA V. CATENA,
COURT STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH
50, PUERTO PRINCESA, PALAWAN, RESPONDENT.**

D E C I S I O N

BERSAMIN, J.:

Gross dishonesty on the part of an employee of the Judiciary is a very serious offense that must be severely punished. Dismissal may be meted on the employee, unless she had meanwhile ceased to be an employee, in which case a high fine shall be imposed.

Antecedents

This administrative case stemmed from an undated anonymous letter-complaint charging respondent Nonita Catena (Catena), a Court Stenographer III of Branch 50 of the Regional Trial Court in Puerto Princesa City, Palawan (RTC) with gross dishonesty she allegedly committed in connection with her Civil Service eligibility accusing her of having caused another person to take the Civil Service Eligibility Examination in her stead.

The letter reads,^[1] thus:

Sir:

I would like to bring to your attention an anomaly brought about by one Noneta Catina.

She is permanently employed as stenographer under the Regional Trial Court (RTC) Branch 50 here in the Justice Hall of Puerto Princesa City.

In 1998, somebody took the stenographer's examination in her behalf in Leyte. She allegedly passed said examination that gave her the permanent position of stenographer in 1998.

May I request for a verification and if found guilty, I hope CSC will do something in fairness to those who are taking your Stenographer's examination.

Thank you very much and more power!

Concerned Citizen

On January 18, 2002, Justice Jose P. Perez, a Member of this Court, as Deputy Court Administrator, forwarded the complaint against Catena for investigation by the Legal Division of the Office of the Court Administrator (OCA). The investigation revealed discrepancies between the pictures, signatures and other details contained in the Career Service Examination permit submitted to the Civil Service Commission (CSC), on one hand, and the 201 file of Catena, on the other.^[2]

On February 21, 2002, Justice Presbitero J. Velasco, a Member of this Court, the Court Administrator then, directed Catena to comment within ten days on the anonymous complaint.^[3]

Catena implored the OCA for a 30-day extension of the period within which to submit her comment.^[4] Despite her request being granted, she failed to submit a comment, causing the Court to issue a tracer letter on September 24, 2002,^[5] but still enjoining her to comply with the previous directive to file a comment within five days from notice, or else the complaint would be resolved without her comment.

On August 13, 2003, the OCA recommended that a resolution addressed to Catena's home and office addresses requiring her to comment within 10 days from notice be issued.^[6] On October 1, 2003, therefore, the Court, after noting the anonymous complaint, required Catena to comment on it within 10 days from notice.^[7]

Catena still failed to comment on the complaint thereafter, prompting the Court to require her on March 17, 2004 to show cause why she should not be disciplinarily dealt with or held in contempt for such failure, and to comply with the October 1, 2003 resolution by submitting the comment within 10 days.^[8] Subsequently, on November 24, 2004, the Court issued another resolution to reiterate the show-cause order of March 17, 2004.^[9]

On March 9, 2005, however, Judge Nelia Yap-Fernandez of the RTC formally informed the Court that Catena had already resigned from her position effective on January 2, 2003.^[10]

In view of this communication, the Court resolved on April 11, 2005, to await the compliance of Catena with the resolution dated November 24, 2004.^[11] On September 26, 2005, the Court required Judge Yap-Fernandez to provide Catena's current and correct address within 15 days from notice because Catena continued to ignore the previous resolutions.^[12]

Eventually on February 12, 2007, the Court directed the Branch Clerk of Court of the RTC to provide Catena's current and correct address within 10 days^[13] because of Judge Yap-Fernandez's intervening disability retirement.^[14] In turn, Ms. Jessie C. Gipal, as Officer-in-Charge of the RTC, complied, and furnished Catena's current and correct address to be at Purok Sandiwa, Brgy. New Princess 5300, Puerto Princesa City,^[15] which compliance was duly noted on June 25, 2007.^[16] Subsequently, on February 4, 2008, the Court considered as served on Catena the previous resolutions of June 25 2007, October 1, 2003, March 17, 2004 and November 24, 2004 because of the return on the service at that address being "Return to Sender-

unclaimed.” [17]

On April 28, 2008, the Court resolved anew to await Catena’s comment, [18] and decided to dispense with her comment only on August 20, 2008, and to refer the complaint to the OCA for evaluation, report and recommendation. [19]

The complaint was later on re-docketed as a regular administrative matter on the basis of the recommendation made on October 7, 2009 by Justice Perez, then already the Court Administrator, who recommended that Catena be held liable for dishonesty and be dismissed from the service with prejudice to re-employment in any branch, agency, instrumentality of the government, including government owned and controlled corporations. [20]

On October 26, 2009, the Court required Catena to manifest if she was willing to submit the case for resolution on the basis of the records and pleadings filed within 10 days from notice. [21] On December 13, 2010, the Court resent the resolution because the postal carrier reported that Catena as the addressee had been “out of town” and did not receive the mail matter. [22]

After the subsequent attempt to serve still failed because, as noted on the envelope, Catena as the addressee had “moved out,” the Court deemed the resolution of October 26, 2009 as served on her on April 13, 2011. [23]

Still, on May 30, 2011, [24] the Court directed the Director of the National Bureau of Investigation (NBI) to locate the whereabouts of Catena and to submit a report thereon within 10 days from notice.

On August 5, 2011, Head Agent (HA) Rosauro D. Bautista of the NBI District Office in Puerto Princesa City sent the following report, viz:

Respondent, NONITA V. CATENA was located at her residence in Purok Sandiwa, Barangay Tiniguiban, Puerto Princesa but refused to sign the herein NOTICE, nevertheless received the document. Agent of the Puerto Princesa District Office served the herein NOTICE on respondent on July 25, 2011 and the same was communicated to the Office of the Deputy Director for Operations Services in Manila. Photograph of herein respondent was taken for identification and reference purposes. [25]

On August 9, 2011, NBI Director Magtanggol Gatdula, citing and quoting the foregoing report of HA Bautista, submitted his compliance with the resolution of May 30, 2011, [26] praying that the compliance be accepted.

Hence, we resolve.

Ruling

Based on its investigation, the OCA found discrepancies between the pictures, signatures and other details contained in Catena’s Career Service Examination

permit submitted to the CSC, on one hand, and those found in her 201 file,^[27] on the other; and concluded that she was thereby guilty of gross dishonesty. It recommended her dismissal from the service, with prejudice to re-employment in any branch, agency, instrumentality or agency of the government including government-owned and -controlled corporations.^[28]

The findings and recommendation of the OCA, being based on established facts, are well-taken, but we modify the recommended sanction in view of Catena's intervening resignation from the service effective on January 2, 2003.

Let it be said at the outset that Catena's resignation from the service did not cause the Court to lose its jurisdiction to proceed against her in this administrative case. Her cessation from office by virtue of her intervening resignation did not warrant the dismissal of the administrative complaint against her, for the act complained of had been committed when she was still in the service. Nor did such cessation from office render the administrative case moot and academic. Indeed, the Court's jurisdiction at the time of the filing of the administrative complaint was not lost because the respondent had ceased in office during the pendency of the case.^[29] Otherwise, exacting responsibility for administrative liabilities incurred would be easily avoided or evaded.

The point of the complaint against Catena is that she misrepresented in her Personal Data Sheet (PDS) that she held a Sub-Professional Civil Service Eligibility, but in truth another person had taken the Civil Service Examination in her place. Her claim that she held a Sub-Professional Civil Service Eligibility with a rating of 86.48%, as stated in her PDS submitted to the Court, was, therefore, entirely false.^[30]

Attempting to disprove the charge that she did not take the eligibility examination herself, Catena submitted her approved leave application and her daily time records corresponding to the period of the eligibility examination. Her submission was really not enough, however, because said documents did not establish that she had herself taken the examination, or that she had been personally at the testing site on the date of the examination. At best, the approved leave application attested only that she had applied for a leave of absence from work, and that her application had been approved, while her daily time records affirmed only that she did not report to her office on the dates that she had supposedly gone on leave.

Perhaps anticipating that her submission of the daily time records and approved leave application would not suffice to support her explanation, she stated in her request for the 30-day extension to file the comment that she would be needing the time to gather the documents she would submit as her evidence to disprove the charge of gross dishonesty,^[31] specifically: (1) a certification from the head office of the Negros Navigation Company in Manila, to show that she had travelled from Puerto Princesa City to Iloilo City, and from Cebu City to Leyte on the date of the examination; (2) affidavits of residents of Leyte attesting to her being in the locality of the examination and to her taking the examination herself; (3) records on file with the CSC office in Leyte; and (4) other evidence of similar nature. But ultimately she did not come forward with the promised documentary evidence, notwithstanding her awareness of the desire of the Court to hear her side.

Compounding Catena's situation was her unusual silence on the complaint despite