

EN BANC

[G.R. No. 189479, April 12, 2011]

JEROME JAPSON, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

D E C I S I O N

NACHURA, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision^[1] dated June 8, 2009 and the Resolution^[2] dated September 9, 2009 of the Court of Appeals (CA) in CA-G.R. SP No. 104865. The CA affirmed the resolutions of the Civil Service Commission (CSC), finding petitioner Jerome Japson (Japson), former Senior Member Services Representative assigned at the Social Security System (SSS) office in Baguio City (SSS Baguio City), guilty of Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service, and imposing on him the penalty of dismissal.^[3]

The antecedent facts, as found by the CSC and adopted by the CA, are as follows:

Records show that Japson became the subject of a series of inquiries conducted by the SSS linking him to a profiting venture involving the processing of claims for SSS death and funeral benefits while he was assigned at SSS Baguio City from 1997 to May 1998. The inquiry was spurred by an affidavit dated October 6, 1999 of Mina Balanag, who happened to assist her illiterate mother, Cat-an Paanos, in claiming, as beneficiary, the SSS death benefits of her deceased father, Kitos Paanos. She alleged that because she knew nothing of the steps for processing of claims for death benefits, a village mate referred her to spouses Boyet and Shirley Abuan [(Spouses Abuan)] who have been frequenting their village. The [S]pouses Abuans (sic) assured that her mother will receive the benefits in due time since Shirley has a relative working at the SSS Baguio City who also happened to be their neighbor at (sic) Baguio City. Later, she learned that this neighbor-relative turned out (sic) to be Shirley's cousin Japson.

In exchange for their help, the [S]pouses Abuan demanded a share equivalent to 10% of the SSS death benefits that will be awarded to Balanag's mother. She reposed her full trust on the Spouses Abuan that even her mother's address in the claim form reflected that of the Spouses Abuan's home at P-2-36 Gabriela Silang Brgy., Baguio City, although her mother really lives in Bila, Bokod, Benguet. After the claim was approved, the SSS issued a check in the amount of Php183,472.72. After it was cashed (sic), the spouses Abuan allegedly received more than what was originally agreed (sic) since aside from the

P[hp]15,000.00 corresponding to their "commission," they demanded Php83,000.00 more, purportedly the asking fee of Japson and a certain Atty. Reynaldo Rodeza, who were instrumental for the release of the benefits. Reluctantly, they gave the amount for fear that the benefits awarded them might be withdrawn. An affidavit dated January 26, 2000[] was executed by Balanag's mother, Cat-an Paanos, to corroborate her allegations.

On the other hand, in his affidavit dated January 27, 2000, as well as in his testimony relative thereto, Erano F. Gaspar (Ireneo in the Transcript of his Testimony taken on June 6, 2000 before the SSS) alleged that he came to know Japson through Shirley Abuan after she convinced him to transfer his claim for his father's death benefits then pending at SSS Solano, Nueva Vizcaya, to SSS Baguio City, intimating that Japson, who is her cousin, could guarantee its prompt release since he was assigned at the claims section there. A meeting with Japson was then arranged by Shirley after which she filed the claim on October 10, 1997. Sometime on (sic) November 1997, Japson informed Gaspar by telephone that a check in an amount of Php74,000.00 was already issued to him. On the same day, he went to Baguio City, where, accompanied by Japson, he retrieved (sic) the check at the Baguio Post Office. After opening an account at PNP (sic) Baguio and withdrawing a sum, Japson informed him that a machine error in the computation of his benefits resulted in an overpayment as he was supposed to receive Php54,000.00. Gaspar handed over the excess P[hp]20,000.00, which Japson promised to deliver personally to SSS Baguio City. In addition, he paid Japson Php2,000.00 for the assistance he (sic) rendered.

In response to the above complaints, the SSS conducted a series of investigation (sic) on the official transactions of Japson and uncovered details that raised its suspicion. First, the address of claimants to the death benefits of deceased SSS members Kitos Paanos, Warlito Costales and Adriano Castillo as well as the pension form of SSS retiree Jovita Resquer bore a common address: P-2-35 Gabriela Silang Brgy., Baguio City[,] which is the address of Japson. They found out, too, that Japson signed and acknowledged the receipt of checks which were issued to the beneficiaries of Paanos and Castillo. It was further disclosed that Japson committed lapses in procedure, namely, his failure to stamp "received" on the claim of funeral benefits of Costales; his having attested to the fact of death of Kitos Paanos even though he has no personal knowledge of the same and with apparent conflict of interest due to his assignment at the claims section; and the discovery that by (sic) as late as February 2000, he has yet to mail a check issued by the SSS way back on (sic) December 24, 1999. The investigators received reports, too, that he took P[hp]17,000.00 from the benefits awarded to one Minda Balucas.

Upon the recommendation of the investigating unit which found prima facie case to support the complaints, the SSS, through Carlos A. Arellano, then Chairman, President and Chief Executive Officer (CEO), formally charged Japson with Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service and placed him under preventive suspension of ninety (90) days. After the parties submitted

their respective pleadings, the formal hearings were held on June 6 and 7, 2000 and November 9, 2000, where Japson testified for his defense.

In his testimony which amplified his Counter-Affidavit/Answer to the Formal Charge, Japson who assisted claimants for death, disability and retirement claims when he was first assigned to the (sic) SSS Bangued[,], refuted the allegation that he took a hefty share from death and funeral benefits awarded to beneficiaries of SSS members referred to him by the [S]pouses Abuan or that he worked in concert with [S]pouses Abuan to profit from the claimants. First, in response to the allegation of Erano P. Gaspar, he recalled that his cousin, Shirley Abuan, who also happened to be his neighbor, told him that Gaspar was having difficulty in claiming the SSS benefits of his father when he filed his claim at SSS Solano branch in Nueva Vizcaya. Assessing that some documents required by [the] SSS Solano Branch are not necessary, he brought the papers instead to SSS Baguio City in order to speed up the processing of Gaspar's claim. Eventually, a check in the amount of Php74,000.00 was issued by the SSS after which he accompanied Gaspar to claim the check at the Baguio City Post Office. After Gaspar cashed (sic) the check, Japson told him matter-of-factly that due to machine error, the SSS overpaid him by Php20,000.00, producing a copy of the encoding sheet prepared by the Benefits Section which showed the correct computation. Gaspar gave him the excess amount for him to turn over to the SSS. Afterwards, they retired to Japson's house at Brgy. Gabriela Silang, Baguio City where they had a few rounds of drinks as it was his cousin's birthday. Gaspar insisted on giving him Php2,000.00 but he refused, saying that he does not expect any payment for his help more so as they are brothers of faith as both belong to *Iglesia ni Cristo*. Instead, Gaspar just spent the sum to buy food for their drinks. As to the Php20,000.00, Japson produced a (sic) SSS Special bank receipt dated February 16, 2000 as proof of remittance by Gaspar of the P[hp]20,000.00 excess amount and a Miscellaneous Payment Return Form bearing an identical date to show that Japson turned over the amount intact to the SSS.

With respect to the allegation that a number of applications for benefits suspiciously bore his address even though the applicants were not from Baguio City but in (sic) outlying provinces with SSS branches of their own, he explained that the [S]pouses Abuan, who were authorized by the claimants to file their application[s] and to follow-up their claims, might have placed the wrong information since they almost have an identical address (sic). He did not notice the error since he was accustomed to his old address which he wrote as Lower Hillside, Kennon Road, Baguio City. As to the case of Resquer, he pointed out that their address in the application clearly showed P-2-45 Brgy. Gabriela Silang and not P-2-35 as claimed in the investigation report. He also denied that he kept the Php17,000.00 from the benefits awarded to Balucas. He insisted that the sum was only entrusted to him for safekeeping since Balucas was afraid to carry such amount when she traveled to Abra, showing as proof thereto a letter dated September 15, 1999 by Balucas acknowledging that Japson already returned the amount to her[,], coupled by a Certification dated September 15, 1999 from Abelardo Yogyog, Branch Head of the Abra Provincial Post Office, that the check corresponding to

the benefits awarded to Balucas was delivered to Balucas by mail at her address [on] Harrison St., Zone 7, Bangued, Abra. Japson backed up his counter-allegations by producing affidavits both dated February 14, 2003 executed by Balucas and Resquer clearing him of any wrongdoing and lauding him for the invaluable assistance rendered them.^[4]

A case for Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service was filed against Japson before the SSS. On February 4, 2003, the SSS promulgated a decision finding Japson guilty on all counts.^[5]

The SSS said that while there was nothing wrong *per se* with petitioner letting claimants use his home address for their claims, a perception of material gain is nonetheless indubitable. It pointed out that it was highly improbable for claimants from Isabela and Nueva Vizcaya, where there are also SSS branches, to file their claims in Abra. The most logical conclusion, the SSS said, is that they made their claims through the Spouses Abuan on the latter's assurance that these would be processed at the soonest possible time. Petitioner should have been wary of the number of claims brought to him by the Spouses Abuan, the SSS said, and he should have avoided these claims or referred them to the proper branch offices.^[6] The SSS held that it is not necessary to show concrete proof of receiving consideration therefor, following the principle of *res ipsa loquitur*.^[7]

Petitioner's motion for reconsideration was denied in an Order dated May 12, 2003. He then appealed to the CSC.

In a resolution dated August 31, 2006, the CSC affirmed the SSS decision. The CSC underscored the link between petitioner and the Spouses Abuan, who were suspected of being fixers in the SSS and who allegedly ran a venture where they earned cuts or "commissions" from death, disability, and retirement benefits that were awarded to the SSS beneficiaries. The CSC found that the common link to the evidence ranged against Japson is the fact that he processed the various claims. The CSC also found credence in the following pieces of evidence: the statements under oath and testimonies of the principal complainants; the appearance of petitioner's address in the Death, Disability, and Retirement Forms of claimants; petitioner's attestation to the fact of death of several members, whose death benefits he himself processed; the fact that the claimants whom petitioner assisted were not from Baguio City; and the fact that these claimants were referred to him by the Spouses Abuan.^[8]

The CSC held that while there is no strong evidence showing that Japson received, collected, or took a share of the benefits awarded to the claimants, he was still liable for the charges against him because his irregular conduct and indiscriminate judgment relative to the handling of the claims caused a serious breach in the integrity of the system observed by the SSS, as well as his having endangered the welfare of the public at large.^[9]

Petitioner filed a motion for reconsideration, which was denied in a resolution dated June 23, 2008.^[10]

Petitioner subsequently filed a Petition for Review under Rule 43 of the Rules of