

## FIRST DIVISION

[ A.M. No. P-06-2251, January 20, 2009 ]

**CECILIA T. FAELNAR, COMPLAINANT, VS. FELICIDAD DADIVAS PALABRICA, COURT STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH 11, MANOLO FORTICH, BUKIDNON, RESPONDENT.**

### D E C I S I O N

**PUNO, C.J.:**

For resolution is an administrative complaint filed by Atty. Cecilia T. Faelnar, former Clerk of Court VI of Branch 11 of the Regional Trial Court (RTC) of Manolo Fortich, Bukidnon, against Felicidad Dadivas Palabrica, former Court Stenographer III of the same branch, for Dishonesty, Falsification of Public Documents, Violation of Republic Act No. 6713 and Violation of Article XI of the Constitution. This administrative case, originally docketed as OCA IPI No. 05-2298-P, was filed on September 19, 2005 before the Office of the Court Administrator (OCA).

In her administrative complaint, complainant alleged that respondent, by declaring her civil status to be single in her Personal Data Sheets (PDS) and in her Statement of Assets and Liabilities (SAL) for CY 2003 and 2004, when in fact she has been married since July 1995, **"defrauded, cheated and deceived the judiciary** in misrepresenting a **material fact** in several official documents."<sup>[1]</sup> Complainant likewise charged respondent with the making of the same false declaration as to her civil status in other official documents, including her Phil. Health record, and her loan applications with the GSIS and the SC Savings and Loan Association.

In her comment, respondent prayed for the outright dismissal of the administrative complaint against her on the ground of forum shopping and for utter lack of merit. With regard to the disputed entry in her PDS, respondent maintained that she submitted a number of copies to the Office of the Clerk of Court; that she personally and manually accomplished all her forms, albeit admittedly she gave more attention to her service record, considering her long history in public service; that due to the tedious character of accomplishing several forms, she inadvertently and by mistake indicated on one of her PDS that she was "single"; and that nevertheless, she had categorically indicated in all her other forms that she is married. <sup>[2]</sup>

As to the disputed entry in her SAL, respondent avers that while it appears that she had entered "n/a" in the space provided for the name of spouse, the same is immaterial and irrelevant because the SAL "deals mainly on assets and liabilities, net worth, disclosure of business interest and financial conditions of the employees"; that her omission is justified as there is even no need to mention that she is married especially since she has made it clear that everything stated in her entries was owned by her and that per a certification from the Municipal Assessor of Manolo Fortich, Bukidnon, her husband did not own any real property; that her omission

was prompted by good faith, practical purpose, urgency and convenience; and that in view of the fact that her husband is an Australian citizen living abroad, respondent perceived it better to state "N/A" in the blank provided for the name of spouse, as she was apprehensive that it would be expensive for her husband to fly in from abroad for the lone purpose of signing documents should the need arise; that her omission, which was made with her husband's knowledge and consent, did not cause the government or any third person injury or damage; and lastly, respondent contends that such omission has already been rectified when she submitted a PDS indicating that she is married, and that in any case, the filing of a PDS is foreign to the office and functions of respondent in her capacity as stenographer.<sup>[3]</sup>

After the parties exchanged pleadings, this Court, in a Resolution dated July 5, 2006,<sup>[4]</sup> required the parties to manifest their willingness to submit the present administrative matter for resolution based on the pleadings filed. In compliance thereof, respondent submitted a Manifestation stating that she is willing to submit the case for resolution on the basis of the pleadings submitted.<sup>[5]</sup> Complainant, on the other hand, requested to set the case for formal investigation and for the conduct of hearings for the presentation of testimonial and additional documentary evidence.<sup>[6]</sup> Hence, in a Resolution dated September 20, 2006, we directed that this case be redocketed as a regular administrative matter.<sup>[7]</sup> On January 22, 2007, we resolved to refer the matter to the Executive Judge of the RTC, Manolo Fortich, Bukidnon, for investigation, report and recommendation.<sup>[8]</sup>

In a letter dated March 12, 2007, Executive Judge Jose U. Yamut, Sr. informed this Court that respondent had tendered her resignation as court stenographer, and was already outside the country during the course of the investigation.<sup>[9]</sup> Meanwhile, complainant was dismissed from service per an En Banc decision promulgated on September 3, 2006.<sup>[10]</sup>

In her manifestation dated March 1, 2007,<sup>[11]</sup> respondent waived her right to appear during the investigation of the case. Nonetheless, she ventured to have this case dismissed for being moot and academic, arguing that the Court has lost jurisdiction over her person when she resigned from her job and took up residence in Australia. For her part, complainant filed a counter manifestation praying that the investigation be given due course, contending that this Court was not divested of jurisdiction over the respondent's person because it had already acquired jurisdiction over respondent when the latter filed her Comment and other pleadings. Furthermore, complainant argued that respondent's resignation did not render the case moot and academic since the act sought to be corrected was performed by respondent in the course of her employment as a public servant.<sup>[12]</sup>

Acting on complainant's counter manifestation, Executive Judge Yamut gave due course to the investigation and found that respondent's claim of inadvertence lacked merit, the inevitable conclusion being that respondent indeed intended to make it appear in her official documents that she was single. Despite these findings, respondent's act was considered a mere error in judgment for which respondent could not be punished. Therefore, in his Final Report dated November 17, 2007, the investigating judge recommended the dismissal of the instant administrative case for lack of merit, to wit:

Not all the elements for falsification are present in the instant case. Specifically, the fourth element is absent. There is no evidence on record to show that respondent's hiding the truth about her civil status was made with the wrongful intent of injuring a third person or the government. It does not also appear that respondent benefited herself unjustly or advanced her own interest when she hid her true marital status. Neither does it appear that she committed the same with the end view of concealing her real identity to evade criminal prosecution or civil liability. On the other hand, respondent's submission that she made an error of judgment in filling out the subject documents appears convincing considering the peculiar circumstances surrounding her case. It is not easy to decide whether to write married or single in a document requiring disclosure of the same when the marriage is not registered. Is she considered by law to be married or not? To the layman, the answer to the question is not that easy.<sup>[13]</sup>

Per this Court's resolution dated February 18, 2008, the Final Report was referred to the OCA for evaluation, report and recommendation.

In its Memorandum dated April 22, 2008, the OCA concluded that respondent committed misrepresentation and falsification of public documents. Respondent's claim of inadvertence was not given credence due to the repetition of the incident of misrepresentation, thus:

xxx Indubitably, respondent submitted documents to the court wherein she indicated that she was single although in fact, she was already married to one Ricardo P. Balito since July 8, 1995. Her argument that this was done due to inadvertence could have been acceptable and could have bailed her out from any liability if the same happened only once or twice. Records will show, however, that respondent did it for a number of times thereby negating her claim that her error was due to mere inadvertence. Clearly, therefore, respondent committed falsification of public documents which is a specie of dishonesty.<sup>[14]</sup>

Hence, in view of respondent's resignation from the service, the OCA recommended that, in lieu of her dismissal, respondent be fined in the amount of Forty Thousand Pesos (P40,000), to be deducted from whatever benefits she is still entitled to receive.<sup>[15]</sup>

We concur with the findings of the OCA and adopt its recommendations in full.

In the present case, respondent would have us believe that she is not liable for dishonesty as her failure to state the fact of her marriage in her personal information documents did not affect her qualifications and functions as a court stenographer. In effect, respondent seeks impunity for her misrepresentation and dishonest acts by emphasizing the absolute dichotomy between her personal and professional capacities.

We reject respondent's contention.

Verily, the bulk of cases pertaining to misrepresentation and falsification of the PDS and other official documents merely touches on the professional realm of the

employee. In the present state of our jurisprudence, these cases usually fall into two categories: either misrepresentations were made as to the educational attainment and professional achievements of the employee in order to gain unwarranted advantage over more qualified individuals,<sup>[16]</sup> or the employee concealed information that would have hurt his eligibility to the position being applied for.<sup>[17]</sup>

Though respondent's infraction does not fall squarely within the abovementioned categories, respondent still cannot claim that the lack of connection between her infractions and her duties and responsibilities as court stenographer absolves her from any liability. It must be remembered that the accomplishment of the PDS is a requirement under the Civil Service Rules and Regulations in connection with employment in the government. As such, it is well settled that the accomplishment of untruthful statements therein is intimately connected with such employment.<sup>[18]</sup> The same rationale applies to the accomplishment of the SAL and other official documents, which are likewise done under oath and required by law to be submitted regularly. Hence, in **Orfila v. Arellano**,<sup>[19]</sup> where we held that the indication of a false birthdate in one's PDS constitutes falsification, the connection between the acts punished and the duties of the employee charged was not even raised as an issue. Similarly, in **Quinsay v. Avellaneda**,<sup>[20]</sup> we did not hesitate to rule that the making of untruthful statements in the application for PhilHealth Form I and the submission of a spurious marriage contract likewise constituted dishonesty and falsification.

Notwithstanding that the making of untruthful statements in official documents is ultimately connected with one's employment, it bears stressing that dishonesty, to warrant the penalty of dismissal, need not be committed in the course of the performance of duty by the person charged.

In **Remolona v. CSC**,<sup>[21]</sup> we reiterated the rationale for this rule, as first enunciated in **Nera v. Garcia**,<sup>[22]</sup> thus:

xxx The rationale for the rule is that if a government officer or employee is dishonest or is guilty of oppression or grave misconduct, even if said defects of character are not connected with his office, they affect his right to continue in office. The Government cannot tolerate in its service a dishonest official, even if he performs his duties correctly and well, because by reason of his government position, he is given more and ample opportunity to commit acts of dishonesty against his fellow men, even against offices and entities of the government other than the office where he is employed; and by reason of his office, he enjoys and possesses a certain influence and power which renders the victims of his grave misconduct, oppression and dishonesty less disposed and prepared to resist and to counteract his evil acts and actuations. The private life of an employee cannot be segregated from his public life. Dishonesty inevitably reflects on the fitness of the officer or employee to continue in office and the discipline and morale of the service.

Hence, whether or not respondent's dishonest acts were connected to her capacity as a court stenographer is clearly irrelevant. As a court personnel, respondent is enjoined to adhere to the exacting standards of morality and decency in her professional and private conduct in order to preserve the good name and integrity of