

SECOND DIVISION

[G.R. NO. 153166, December 16, 2005]

**TERESITA L. VERTUDES,^[1] PETITIONER, VS. JULIE BUENAFLORE
AND BUREAU OF IMMIGRATION, RESPONDENTS.**

D E C I S I O N

PUNO, J.:

Before us is a petition for review by *certiorari* under Rule 45 of the Rules of Court, seeking to review and set aside the decision^[2] and resolution^[3] of the Court of Appeals (CA), which affirmed the decision of the Civil Service Commission (CSC) finding petitioner guilty of grave misconduct and dismissing her from government service.

Petitioner Teresita L. Vertudes was a fingerprint examiner at the Alien Registration Division of the Bureau of Immigration (BI). In a facsimile letter^[4] dated July 27, 1998, a certain Peng Villas, a news editor of the Philippine Weekly Newspaper, referred to then BI Commissioner Rufus Rodriguez the complaints of private respondent Julie Buenaflor, Amy Cosino and Manuelito Lao, against petitioner.

According to Villas, private respondent Buenaflor complained of having been convinced by petitioner into paying the total amount of P79,000.00 in exchange for the processing of her visa, passport and other travel documents for Japan. Private respondent delivered to petitioner Security Bank (SB) Check Nos. 0014797 and 0014798 in the amounts of P30,000.00 and P20,000.00, respectively, and cash worth P29,000.00. However, no visa was delivered. Private respondent insisted that petitioner return her money, to no avail.

Villas also referred to Commissioner Rodriguez the complaint of Lao who allegedly told him that he paid P60,000.00 to petitioner in exchange for a Chinese Visa and a passport for Taiwan. Likewise, Villas referred Cosino's complaint that the latter collected from Virfinia Dumbrique, Jaime Santos Flores and Mariano Evangelista, the amounts of P20,000.00 each, upon petitioner's word that they would be in exchange for tourist visas. Both Lao and Cosino claimed that the promised passport and visas did not materialize and despite many requests for the return of the amounts paid to petitioner, she refused to comply. Allegedly, "Vertudez threatened them that they cannot force her to pay back the said amount as she has the back up [of] higher BID officials."

Acting upon Villas' letter, Commissioner Rodriguez issued a memorandum,^[5] directing the petitioner to submit a sworn written explanation. In her sworn written memorandum,^[6] petitioner assailed the credibility of Villas. She alleged that Villas was not a member of the National Press Club as he claimed to be. She averred that the sum of P50,000.00, as evidenced by SB Check Nos. 0014797 and 0014798, was

extended to her by private respondent Buenaflor as a loan. She was constrained to borrow money from private respondent and other close friends when her brother became seriously ill. However, she claimed that she had fully settled her obligation to private respondent through installment. She also claimed that private respondent was the one engaged in illegal recruitment through the use of falsified or forged passports. Private respondent was allegedly using petitioner's name in dealing with some immigration officials and employees to expedite the processing of the documents of her (private respondent's) clients. Petitioner allegedly informed said officers and employees that she was not connected to private respondent in any way. Private respondent allegedly resented this "abrupt disassociation." Also, her repeated refusal to "escort" private respondent's clients who were leaving for abroad using falsified travel documents allegedly led private respondent to threaten her that she could easily use SB Check Nos. 0014797 and 0014798 as evidence to file charges against petitioner by making it appear that she (private respondent) gave the money because of petitioner's promise to facilitate her travel to Japan. Petitioner denied having received the sum of P29,000.00 from private respondent, contending that such claim is "pure falsehood because of the absence of document to prove the alleged receipt." As regards the complaints of Lao and Cosino, petitioner denied having met or known said persons.

Finding petitioner's explanation "unsatisfactory and [her] defense weak," Commissioner Rodriguez issued Personnel Order No. RBR 98-60,^[7] preventively suspending her for sixty (60) days pending the investigation of the case. The instant case was assigned to Special Prosecutor Norberto dela Cruz, who issued a subpoena^[8] ordering private respondent and petitioner to appear before him on October 15, 1998 for the formal investigation of the case. It appears that in the meantime, Villas died and private respondent personally took on the instant complaint with the BI for Grave Misconduct against petitioner, docketed as Administrative Charge No. 0004. Lao and Cosino filed their respective complaint-affidavits^[9] with the BI which became the subject of another administrative case against petitioner.^[10]

On August 21, 1998, petitioner filed a Motion for Reconsideration (Re: Personnel Order No. RBR-98-60) with Motion to Dismiss.^[11] On September 2, 1998, petitioner filed a Manifestation with Urgent Prayer to Resolve Motion to Dismiss,^[12] averring that the complaint instituted by Villas in behalf of private respondent was a harassment case against her. Petitioner sought the dismissal of the instant action on the ground that in addition to the instant administrative case, private respondent had personally filed her complaint-affidavit "of similar nature and character" with the Manila City Prosecutor's Office, docketed as 98-H-44000-1, and with the Office of the Ombudsman, docketed as OMB-98-1701.

Private respondent narrated the pertinent events in her complaint-affidavit^[13] as follows:

1. That I met Ms. Teresita Vertudes, an employee of the Bureau of Immigration and Deportation, Intramuros, Manila sometime in the middle part of 1996;
2. That from that time on, we became friends because we come from the same region and that she used to tell us that she is capable of

deploying job applicants to Japan;

3. That during one of those times that I dropped by her office, she intimated to me that a group of Immigration Officers are scheduled to leave for Japan for training and that she was the one who received a call from a Japanese Consul;
4. That Ms. Teresita Vertudes asked me if I am interested in going to Japan because she will find a way to accommodate me and I told her that I am deeply interested but my problem was that my passport was left in Bacolod City and she volunteered to work-out [and] facilitate the processing of my passport and visa and that [all] I need to do is give her my picture which I did;
5. That she even added that she has a brother in Japan who could also help me find a job and I will be going there along with her son, Jimmy V[e]rtudes Santos. She showed to me her son's passport and application for a Visa, copies of which are attached and marked as Annexes "A", "B" and "C";
6. That according to Ms. Vertudes I will be receiving a salary of one lapad per day as a factory worker and that should I accept to her offer, all that will be required of me is to give her the amount of P80,000.00;
7. That on December 24, 1997 Ms. Vertudes received from me Security Bank Check No. 0014797 in the amount of P30,000.00 which she was able to encash and likewise Security Bank Check No. 0014798 in the amount of P20,000.00 x x x Annexes "D" and "E";
8. That on February 8, 1998, because of her insistence and persistence that I should deliver the balance of P30,000.00 to her so that I could leave in a week's time, I was forced to produce the said amount by requesting a friend to pawn my jewelry in the amount of P29,000.00 and the aforesaid amount was handed to Ms. Vertudes in the presence of Ms. Joy Gutierrez at her office in (BID), Intramuros, Manila;
9. That after that last payment, I have been asking her as to when I am suppose[d] to leave because I was already prepared to leave and have in fact told my relatives and friends that I will be leaving soon for Japan but she did not stop making promises;
10. That upon the advi[c]e of a lawyer and to be able to know once and for all whether I could still leave, I requested my lawyer to write a letter to Ms. Vertudes for her to refund the sums of money which I delivered to her in the total amount of P79,000.00 for the processing of my Passport and Visa for job deployment abroad but she did not even answer the letter and neither called up my lawyer to explain her side; letter is attached as Annex "E";

11. That for Ms. Teresita Vertudes' failure to make good her promise to deploy me after receiving the amount of P79,000.00 in consideration of a job placement in Japan, I hereby charge her for the crime of Illegal Recruitment and Estafa; x x x

Annexed to private respondent's complaint-affidavit were: a) the affidavit of a certain Jessilyn Gutierrez^[14] who attested that she accompanied private respondent in going to the office of petitioner and she was with private respondent when the latter delivered to petitioner the checks amounting to P50,000.00 and cash worth P29,000.00 for private respondent's job placement to Japan; b) copies of the passport and application for a visa of petitioner's son, to prove that petitioner showed these documents to her so she would believe that she would be going to Japan with petitioner's son; c) copies of SB Check Nos. 0014797 and 0014798, to prove petitioner's receipt of the total amount of P50,000.00 from private respondent; and d) letter of private respondent's counsel to petitioner demanding the refund of P79,000.00 from petitioner.

On October 15, 1998, petitioner, accompanied by her counsel, and private respondent appeared before Special Prosecutor dela Cruz for the formal investigation of the case.^[15] The second hearing took place on October 27, 1998, during which, petitioner submitted her Counter-Affidavit^[16] and the affidavits of her witnesses. Her version was:

4.1. I first met Ms. Buenaflor sometime in 1996 when I was still assigned at the General Services Division of the Bureau of Immigration;

4.2. At that time, Ms. Buenaflor represented to me that she was connected with a travel agency assigned to process/facilitate documents of their clients in the Buereau of Immigration;

4.3. Indeed, I saw Ms. Buenaflor processing and making follow-ups of documents in the different Divisions/Departments of the Bureau of Immigration similar to what were being done by the representatives of other travel agencies transacting business therewith;

4.4. During that period, Ms. Buenaflor and me became close friends because she frequently visited me in my office at General Services Division and would even stay thereat while processing documents and waiting for their release. In fact, she often took her lunch and merienda with me and sometimes, with the other employees of our division;

4.5. Sometime in the third week of December 1997, I was informed by my relatives in our hometown that my brother, Mariano "Dido" Vertudes was seriously ill and was thereafter confined on December 22, 1997 at Gingoog General Hospital located at Gingoog City, Misamis Oriental;

4.6. The type of illness of my brother required extensive treatment and medication; and for this reason, they requested for financial assistance to defray the expenses therefor;

4.7. Since I was then in financial distress, I was constrained to borrow money with interests from Ms. Buenaflor and other close friends of mine.

As a kind gesture on the part of Ms. Buenaflor she extended to me a loan in the total amount of P50,000.00 as represented by Security Bank check nos. 0014797 and 0014798 in the respective amounts of P30,000.00 and P20,000.00 (citation omitted);

4.8. It is however our agreement that I would pay the amount of P50,000.00 with the additional amount of P10,000.00 representing the interests therefore for a total of P60,000.00;

4.9. We further agreed that I would pay my financial obligation to Ms. Buenaflor on or before the last day of May 1998 from December 1997 on installment basis;

4.10. With the aforementioned amount of P50,000.00 loaned to me by Julie Buenaflor and the other amounts x x x from other friends, I was able to contribute the total amount of P100,000.00 for the treatment and hospitalization of my brother. It was, however, to no avail because my brother died on January 6, 1998;

4.11. Pursuant to our agreement, I was able to pay Ms. Buenaflor on installment basis the total amount of P60,000.00 at my earlier indicated address on the following dates:

DATE	AMOUNT
February 28, 1998	P15,000.00
March 31, 1998	15,000.00
April 30, 1998	15,000.00
May 30, 1998	15,000.00

4.12. I tendered the said payments to Ms. Buenaflor at my residence on the dates earlier enumerated in the presence of my housemaids, Eliza Compo and Jocelyn Reyes; x x x

Petitioner averred that private respondent misrepresented to her (petitioner's) son, Jimmy Santos, Jr., that she (private respondent) would facilitate his travel to and employment in Japan. She also assailed the credibility of private respondent by accusing her of using several passports under different names. Attached to petitioner's counter-affidavit were: a) a copy of a passport application in the name of Honna Sumadia Araneta showing the photographs of private respondent; b) referral slip of the Pasay City Police Station and the sworn statement of a certain Armando Gambala charging private respondent with Estafa and Illegal Recruitment; [17] c) affidavits of petitioner's son, Jimmy Santos, Jr., [18] and a certain Enrico Tuazon, showing that they likewise filed a case for Estafa and Illegal Recruitment against private respondent; and d) a copy of the Certificate of Business Name and Certification [19] issued by Prudential Bank, to prove that private respondent misstated the address of her business establishment. Petitioner also submitted to Special Prosecutor dela Cruz the *Pinagsamang Sinumpaang Salaysay* [20] of her two housemaids, Eliza Compo and Jocelyn Reyes, to prove that she had fully paid her obligation to private respondent. Likewise, she submitted the handwritten joint sworn statement [21] of Ernesto V. Cloma and Jhun M. Romero, media practitioners, to prove that Villas asked for petitioner's forgiveness before he died, admitting that he only sent his letter dated July 27, 1998 to Commissioner Rodriguez in