

EN BANC

[A.M. Nos. P-03-1677 and P-07-2317, July 15, 2009]

LIBERTY M. TOLEDO, COMPLAINANT, VS. LIZA E. PEREZ, COURT STENOGRAPHER III, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, MANILA, RESPONDENT.

D E C I S I O N

CARPIO, J.:

The Case

Before the Court are two complaints for conduct prejudicial to the best interest of the service filed by Liberty M. Toledo (Toledo), City Treasurer of Manila, against Liza E. Perez (Perez). Perez used to work in the Office of

the Clerk of Court, Regional Trial Court (RTC), Manila, as Court Stenographer III.

The Facts

On 10 April 2000, Celso Ramirez (Ramirez), messenger of NYK Fil-Japan Shipping Corporation (NYK), went to the Office of the City Treasurer of Manila, to pay NYK's business tax for the second quarter of 2000. Ramirez gave Local Treasury Operations Officer I Rogelio Reyes (Reyes) PCI Bank Manager's Check No. 0000061101^[1] dated 10 April 2000. The check amounted to P339,881.35 and was payable to the "City Treasurer Manila." Reyes issued Ramirez a fake receipt.^[2]

Abner L. Aniceto (Aniceto), employee of Total Distribution & Logistics Systems Incorporated (Total), also went to the Office of the City Treasurer to pay Total's business tax, mayor's permit, municipal license, and other regulatory fees for the second, third and fourth quarters of 1999 and for the first, second, third and fourth quarters of 2000. Aniceto alleged that he gave Revenue Collection Clerk I German G. Tamayo (Tamayo) of the License Division Equitable PCI Bank Manager's Check No. 0000023175^[3] dated 11 April 2000. The check amounted to P61,845.92 and was payable to the "Office of the Treasurer Manila." Tamayo issued Aniceto fake receipts.^[4]

The two checks ended up in the hands of a certain Rogelio Clemente (Clemente) who was a fixer. Clemente gave the checks to Jesus Agustin, Jr. (Agustin, Jr.) who was a friend of Perez. Agustin, Jr. approached Perez and asked her to rediscount the checks. Perez agreed on the condition that the checks will be accepted and cleared by the bank. Perez deposited the checks in her personal savings account with Land Bank and the bank accepted and cleared the checks.

Toledo discovered the fake receipt of NYK and, on 18 July 2000, she called the corporation to inform them about it. NYK's chief accountant, comptroller, and Ramirez immediately went to the Office of the City Treasurer to settle the issue. They brought a copy of PCI Bank Manager's Check No. 0000061101 as evidence of payment of their business tax.

After investigating the matter, Toledo discovered that PCI Bank Manager's Check No. 0000061101 was deposited in the personal savings account of Perez. Thus, in a complaint^[5] dated 27 July 2000 and addressed to the Office of the Court Administrator (OCA), Toledo charged Perez with conduct prejudicial to the best interest of the service.

In its 1st Indorsement^[6] dated 10 August 2000, the OCA directed Perez to comment on the complaint. In her affidavit^[7] dated 30 August 2000, Perez stated that her transaction with Agustin, Jr. had no relation to her position as court stenographer and that she acted in good faith.

Meanwhile, Toledo discovered the fake receipts of Total and, on 2 April 2001, Total's manager and Aniceto went to the Office of the City Treasurer to settle the issue. After investigating the matter, Toledo discovered that Equitable PCI Bank Manager's Check No. 0000023175 was deposited in the personal savings account of Perez. Toledo filed a complaint^[8] dated 4 April 2001 with the Office of the Ombudsman charging Perez with conduct prejudicial to the best interest of the service and violation of the Anti-Graft and Corrupt Practices Act.

In its Decision^[9] dated 27 March 2002, the Office of the Ombudsman referred the complaint against Perez to the OCA since Perez was employed in the Judiciary. In its 1st Indorsement^[10] dated 23 August 2002, the OCA directed Perez to comment on the complaint. In her comment^[11] dated 11 September 2002, Perez adopted her 30 August 2000 affidavit as her comment. In her Rejoinder^[12] dated 9 October 2002, Perez stated that:

Respondent here is an INNOCENT VICTIM. Respondent deposited and/or presented the check for payment at Land Bank and the same was not dishonored nor did the bank questioned [sic] the 1st check. Thus, respondent presumed in good faith that there is no irregularity on the subject check(s) as she (respondent) is not familiar with the banking rules and no less than the bank is in a better position to ascertain the irregularity on the checks.^[13]

In her Sur-Reply^[14] dated 10 November 2002, Perez stated that:

Complainant has no right to malign herein respondent by tagging herein respondent as a "cohort" or "co-conspirator" as herein respondent has no knowledge how the said checks reached the hand of Mr. Jesus Agustin, Jr. In fact, herein respondent has filed the necessary legal action against Mr.

Jesus Agustin, Jr.

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Respondent repleads that she (respondent) is an innocent victim of this unfortunate incident. In no case can it be gleaned that respondent employed scheme, design or deceit in having the checks encashed and/or deposited in her account.

In its Report^[15] dated 6 May 2002, the OCA recommended that the case be referred to Acting Executive Judge Enrico A. Lanzanas (Judge Lanzanas), RTC, Manila, for investigation, report, and recommendation. In a Resolution^[16] dated 3 July 2002, the Court referred the case to Judge Lanzanas.

In its Report^[17] dated 9 December 2002, the OCA recommended that the 4 April 2001 complaint be re-docketed as a regular administrative matter and that the case be referred to Judge Lanzanas for investigation, report and recommendation. In Resolutions^[18] dated 29 January 2003, the Court referred the case to Judge Lanzanas and re-docketed the complaint as a regular administrative matter.

In a letter^[19] dated 27 March 2003, Perez formally tendered her resignation effective 1 April 2003.

In its Report^[20] dated 16 July 2003, the OCA recommended that (1) Judge Lanzanas jointly assess the two complaints Toledo filed against Perez and make his recommendation; and (2) Perez's benefits be withheld. In a Resolution^[21] dated 13 August 2003, the Court directed Judge Lanzanas to jointly assess the two complaints and make his recommendation, and withheld Perez's benefits. In its Report^[22] dated 7 October 2003, the OCA recommended that the two administrative cases against Perez be consolidated. In a Resolution^[23] dated 19 May 2004, the Court consolidated the two cases.

Judge Lanzanas was appointed Associate Justice of the Court of Appeals. The Administrative cases were assigned to Judge Antonio M. Eugenio, Jr. (Judge Eugenio, Jr.), RTC, Manila, Branch 24, for joint assessment and recommendation.

Investigating Judge's Report and Recommendation

In his Report^[24] dated 7 September 2006, Judge Eugenio, Jr. found that (1) 38 checks -- all payable to the City Treasurer, City of Manila -- were deposited in the personal savings account of Perez; (2) the total amount of the 38 checks was P1,980,784.78; and (3) Land Bank accepted and cleared the 38 checks. Judge Eugenio, Jr. recommended that the cases against Perez be dismissed for insufficiency of evidence. He stated that:

The aggregate amount of the checks were rediscounted by Liza E. Perez who had substantial deposits with the Land Bank, Taft Avenue branch; she made it clear with Jesus Agustin, Jr., a close friend and the source of