

## EN BANC

**[ A.M. No. P-15-3391, November 16, 2015 ]**

**RE: INCIDENT REPORT RELATIVE TO A CRIMINAL CASE FILED  
AGAINST ROSEMARIE U. GARDUCE, CLERK III, OFFICE OF THE  
CLERK OF COURT (OCC), REGIONAL TRIAL COURT (RTC),  
PARANAQUE CITY**

### DECISION

#### PER CURIAM:

In a letter<sup>[1]</sup> dated November 16, 2012, Executive Judge Brigido Artemon M. Luna II of the Regional Trial Court of Parañaque City (RTC), Branch 196, transmitted to the Office of the Court Administrator (OCA), for appropriate action, the Incident Report<sup>[2]</sup> dated November 5, 2012 of Atty. Jerry R. Toledo (Atty. Toledo), Clerk of Court VI of the Office of the Clerk of Court (OCC), RTC, reporting the arrest of Rosemarie U. Garduce (Garduce), Clerk III of the OCC, RTC.

#### ANTECEDENT FACTS

In his report, Atty. Toledo narrated that on October 25, 2012, private complainants Marie Andrea Alarilla (Alarilla) and Gwen Marie Lachica (Lachica) agreed that Garduce will process the bail bond of their father who has a pending criminal case before the RTC, Branch 196.

At about 9:00 a.m., Alarilla and Lachica went to the OCC to give the amount of P2,000.00 to Garduce as initial payment. Thereafter, at around 1:00 p.m., they again met with Garduce at Jollibee, San Antonio Valley I and handed to her the additional amount of P21,000.00. When they, however, received the receipt<sup>[3]</sup> for their total payment, it only stated the amount of P20,500.00.

At around 4:00 p.m., however, Alarilla and Lachica learned that their motion was denied. Immediately, they demanded from Garduce the return of their total payment of P23,000.00 but the latter refused. As such, they brought Garduce at the Parañaque City Police Station wherein she invoked her right to remain silent.

On October 27, 2012, the Parañaque City Prosecutor conducted an inquest proceeding and found probable cause to indict Garduce for the crime of Estafa.

On December 3, 2012, the OCA issued its 1<sup>st</sup> Indorsement<sup>[4]</sup> directing Garduce to file her comment thereon within ten (10) days from receipt of the Indorsement.

Due to Garduce's failure to submit her comment, the OCA issued a 1<sup>st</sup> Tracer<sup>[5]</sup> dated May 28, 2013 wherein the OCA reiterated its order directing Garduce to file her comment on the complaint filed by Atty. Toledo. As such, Garduce was given

another five (5) days from receipt of the 1st Tracer to submit her comment. Despite repeated orders, however, Garduce failed to comply.

## **RECOMMENDATION AND RULING OF THE OCA**

After evaluation, the OCA recommended the re-docketing of the matter as a regular administrative case and that Garduce be found guilty of grave misconduct, and willful violation of this Court's rules, directives and circulars, and that she be dismissed from the service with forfeiture of all retirement benefits, excluding accrued leave credits, with prejudice to reemployment in any government office, including government-owned and controlled corporations.<sup>[6]</sup>

## **RULING OF THE COURT**

This Court finds the recommendation of the OCA to be proper under the circumstances.

"Time and time again, [the Court] has stressed that the behavior of all employees and officials involved in the administration of justice, from judges to the most junior clerks, is circumscribed with a heavy responsibility."<sup>[7]</sup>

Section 2, Canon I of the Code of Conduct for Court Personnel provides that "[c]ourt personnel shall not solicit or accept any gift, favor or benefit based on any explicit or implicit understanding that such gift, favor or benefit shall influence their official actions," while Section 2(e), Canon III states that "[c]ourt personnel shall not x x x solicit or accept any gift, loan, gratuity, discount, favor, hospitality or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court personnel in performing official duties."

The evidence on record, as found by the OCA, shows that Garduce clearly violated these provisions when she accepted money for processing the bail bond of the private complainants' father. The OCA based its observation from the following facts, to wit: (1) the receipt<sup>[8]</sup> submitted by the private complainants duly signed by Garduce stating the latter's receipt of P20,500.00 on October 25, 2012; and (2) Garduce's failure to return the said amount to the private complainants despite her failure to obtain the promised bail bond for the private complainants' father.

In *Villahermosa, Sr. v. Sarcia*,<sup>[9]</sup> this Court held that "[t]he sole act of receiving money from litigants, whatever the reason may be, is antithesis to being a court employee."<sup>[10]</sup> In the present case, Garduce clearly violated the above norms of conduct as the allegations against her stood completely uncontroverted.

Clearly, Garduce's act of collecting or receiving money from litigant constituted grave misconduct in office and merits a grave penalty. Under Section 46(A)(3), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service, dismissal is the penalty for grave misconduct at the first offense. Section 52(a) of the same Rule provides that the penalty of dismissal shall carry with it the cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification for reemployment in the government service, and bar from taking civil service examination.