

SPECIAL THIRD DIVISION

[A.M. No. P-09-2686 (FORMERLY OCA I.P.I NO. 06-2441-P), March 28, 2011]

PRISCILLA L. HERNANDO, COMPLAINANT, VS. JULIANA Y. BENGSON, LEGAL RESEARCHER, RTC, BRANCH 104, QUEZON CITY, RESPONDENTS.

R E S O L U T I O N

MENDOZA, J.:

Before us is a motion for reconsideration filed by private complainant Priscilla L. Hernando (*Hernando*) seeking a review of our March 10, 2010 Resolution finding respondent Juliana Y. Bengson (*Bengson*) guilty of Simple Misconduct and ordering her suspension from the service, without pay for one (1) month and one (1) day. The *fallo* of the March 10, 2010 Resolution is reproduced below as follows:

WHEREFORE, finding Juliana Y. Bengson, Legal Researcher, Regional Trial Court, Branch 104, Quezon City, GUILTY of Simple Misconduct, the Court hereby orders her SUSPENDED from the service, without pay for one (1) month and one (1) day, with a WARNING that a repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.^[1]

In her motion, Hernando repleads the assertions in her memorandum and prays that a more severe penalty should be imposed on Bengson. According to her, respondent being a court employee she had no business offering her services for facilitation of the land transfer papers at the Bureau of Internal Revenue (*BIR*). Such actuation is "conduct prejudicial to the best interest of the service," and thus should be punished for such act pursuant to the ruling in *Largo v. CA*.^[2] In addition, she prays that the amount of P76,000.00 that was given to respondent should be considered as a "just debt" and, therefore, she should be made to answer for the same from her salary.^[3]

In her Comment, Bengson counters that she merely accommodated the request for help from Hernando's own daughter. She insists that she had no interest whatsoever in the facilitation of the said land transfer papers.^[4]

The Court stands pat in its earlier holding that:

In the present case, the OCA (Office of the Court Administrator) found, and we agree, that Bengson's complicity in the failed titling of the property eyed by Hernando was manifest.

Based on the trial judge's investigation and that of the OCA, Bengson offered to help Hernando find a surveyor for a fee, and she was the very same one who directly received the money intended for the titling of the property. To Hernando's dismay, Villacorte did not turn out to be the 'expert' that she was made to believe. To our mind, it was the very misrepresentation that precipitated the transaction that eventually defrauded Hernando. Complainant would not have parted with her hard-earned money were it not for Bengson's misrepresentation with respect to Villacorte's capacity to facilitate the titling of the property. Respondent cannot extricate herself by claiming that she had no direct participation in the negotiations.^[5]

This is buttressed by the report of the investigating judge, Executive Judge Teodoro A. Bay (*Judge Bay*). Although Judge Bay did opine in his report that the above transaction was purely private in character and that there was no showing that respondent took advantage of her position as legal researcher of the court, he did conclude:

x x x. The respondent, therefore, insofar as the complainant was concerned, was the person responsible for the package contract for which reason all communication from the Hernandos were directed to her. Moreover, respondent acknowledged to have received after repeated calls/demands from the complainant.^[6]

The above finding is likewise affirmed by the OCA. Through then Court Administrator and now Associate Justice of the Supreme Court, Justice Jose P. Perez, it made the following observation:

In the instant case, the participation of respondent Bengson, in the failed titling of the property being eyed by the family of the complainant, cannot be denied. From the facts ascertained by the investigating judge, it was respondent who offered to help the complainant find a surveyor, in exchange for a fee. It was also established in the investigation that respondent directly received money from the complainant. To aggravate the situation, the surveyor, Maritess Villacorte, whom respondent recommended, did not turn out to be the 'expert' complainant had expected.

Complainant would not have parted with her hard-earned money, if not for the assurances she received from the respondent. The 'seed' of the fraudulent transaction would not have been 'planted' if respondent did not offer her 'services' in the first place.^[7]

The complicity of Bengson was very apparent. During the hearing before Judge Bay, she admitted that it was she together with her husband who went to see Hernando at the latter's residence sometime in September 2002 in order to "explain" the package for facilitation of the land transfer papers of the subject property at the

BIR.^[8] Certainly, no disinterested or uninvolved person would go so far as to pay a visit to someone whom she had not met before just to relay the package contract allegedly offered by her half-sister and niece, unless she herself was very much involved in it or, at the least, would benefit from the arrangement.

Bengson also admitted that when she went to Hernando's residence for the second time, she was accompanied by her half-sister and niece purportedly to explain and reduce the package contract cost from P100,000.00 to 70,000.00. In the meeting, payment was agreed to be paid through her (Bengson).^[9] Later in her testimony, Bengson admitted having received the amount of P70,000.00 from Hernando in the presence of her half-sister and niece.^[10]

While Bengson claimed that she immediately turned over the full amount to her half-sister and her niece at the time that they were still at Hernando's residence, the receipt covering the amount was only issued when she allegedly chanced upon them at McDonald's in April of the following year. The Court is of the considered view that it is nothing but a desperate attempt on the part of Bengson to distance herself from the deal made with Hernando.

Thus, the Court is not ready to depart from its original finding with respect to the complicity of Bengson in the wrongdoing against Hernando. What remains to be resolved now in this motion for reconsideration is whether Bengson should be held liable for Simple Misconduct or for "Conduct prejudicial to the best interest of the service?"

In resolving this issue, a review of the Court's disposition in the case of *Largo v. CA*^[11] is instructive. In that case, it was explained that an administrative offense constitutes "misconduct" when it has a direct relation to, and is connected with, the performance of the official duties of the one charged.

x x x. By uniform legal definition, it is a misconduct such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it has been said at all times, it is necessary to separate the character of the man from the character of the officer, x x x. It is settled that misconduct, misfeasance, or malfeasance warranting removal from office of an officer must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office, x x x.^[12]

Thus, misconduct refers to a transgression of an established and definite rule of action, more specifically, some unlawful behavior or gross negligence by the public officer charged.^[13]

It must be noted however that in this case, no proof was offered to show that Largo's actions being complained of were related to, or performed by him in taking advantage of, his position. His actions did not have any direct relation to or connection with the performance of his official duties. Hence, it was concluded that Largo acted in his private capacity, and thus, could not be made liable for