



Republic of the Philippines

Supreme Court

Manila

EN BANC

OFFICE OF THE COURT
ADMINISTRATOR,

Complainant,

A.M. No. P-11-3024

Present:

CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
SERENO,
REYES, and
PERLAS-BERNABE, JJ.

- versus -

MA. IRISSA G. MUSNGI,
Court Legal Researcher II, Regional
Trial Court, Judicial Region III,
Branch 36, Gapan City, Nueva Ecija,
Respondent.

Promulgated:

JULY 17, 2012

x ----- x

DECISION

PER CURIAM:

In January 2011, Judge Cielitolindo A. Luyun (Judge Luyun) assumed office as Presiding Judge of the Regional Trial Court (RTC), Judicial Region III, Branch 36, Gapan City, Nueva Ecija. Upon assumption of office, he conducted an inventory of pending cases and evidence submitted to the trial

court. During the inventory, he found a handwritten receipt¹ for ₱45,000. The amount, which was missing, was part of the evidence in Criminal Case Nos. 8674, 9096, 9151 and 9152. The recipient of the amount was Ma. Irissa G. Musngi (Musngi), Court Legal Researcher II of the RTC.

In a memorandum² dated 2 February 2011, Judge Luyun directed Musngi to explain why no administrative case should be filed against her for tampering with evidence submitted to the trial court. Judge Luyun also directed Musngi to restitute the ₱45,000.

In a letter³ dated 21 February 2011, Musngi explained that (1) the ₱45,000 was part of the evidence seized by the apprehending officers in Criminal Case Nos. 8674, 9096, 9151 and 9152; (2) retired Judge Arturo M. Bernardo (Judge Bernardo) directed Musngi to deposit the amount with the Office of the Clerk of Court; (3) the cashier at the Office of the Clerk of Court accepted then returned the amount to Musngi; and (4) Judge Bernardo directed Musngi to use the amount for the repair of the ceiling and toilet of the trial court. After several demands, Musngi restituted the ₱45,000 on 4 March 2011.

In a memorandum⁴ dated 18 March 2011, Executive Judge Celso O. Baguio (Judge Baguio), RTC, Judicial Region III, Branch 34, Gapan City, Nueva Ecija, asked Judge Luyun to submit a report on any action he has taken regarding Musngi's 21 February 2011 letter. Judge Baguio furnished the Office of the Court Administrator (OCA) a copy of the memorandum.

In a letter⁵ dated 30 June 2011, the OCA required Judge Luyun to submit a report, together with supporting documents, on any action he has

¹ *Rollo*, p. 17.

² *Id.* at 18.

³ *Id.* at 19-20.

⁴ *Id.* at 6.

⁵ *Id.* Signed by Court Administrator Jose Midas P. Marquez.

taken regarding Judge Baguio's 18 March 2011 memorandum.

In a report⁶ dated 8 August 2011 and submitted to Judge Baguio and the OCA, Judge Luyun stated that:

The evidence shows the amount of Php 45,000.00 was part of the evidence seized by the enforcers in Criminal Cases [sic] Nos 8674, 9151, 9096, and 9152 which are [sic] part of the accountabilities of Ms. Gutierrez as the then evidence custodian of this court and which she turned over to Ms. Musngi on July 19, 2005, in view of the former's transfer to another court. The same amount was in turn turned over by Ms. Musngi to Ms. Pangilinan for safekeeping only in the Office of the Clerk of Court upon verbal instruction of the then Executive/Presiding [sic] Judge Arturo m. [sic] Bernardo. Since there is no account with which to credit the amount of Php 45,000.00, Ms. Pangilinan issued an acknowledgment receipt instead of the customary official receipt. Later or on February 6, 2006, Ms. Musngi withdrew the said amount from Ms. Pangilinan. By her own admission, Ms. Musngi spent the money for the alleged repair of the previous court's courtroom, chamber room, an [sic] restroom. However, Ms. Musngi failed to submit receipts in support thereof. Inquiries made with court employees disclosed that the sala of Branch 36, RTC was housed at the old City Hall and all repairs made therein were shouldered by the city government. The old City Hall had undergone renovation to be used as a hospital and we cannot confirm as to whether or not the previous sala had actually undertaken any repairs.⁷

In a report⁸ dated 28 November 2011, the OCA found Musngi liable for grave misconduct and serious dishonesty, and recommended that Judge Luyun's 8 August 2011 report be re-docketed as a regular administrative matter and that Musngi be dismissed from the service. The OCA held that:

EVALUATION: There is sufficient basis to hold Ms. Ma. Irissa G. Musngi liable for Grave misconduct and serious dishonesty. Although it is within her right, as Officer-In-Charge, to place in custody and safe keep the money from the Office of the Clerk of Court-Regional Trial Court representing the cash evidence in several criminal case [sic] raffled to Branch 36, RTC, Gapan, Nueva Ecija, she took the money for the wrong reason. There is no law or rule giving her the authority to utilize the cash evidence of Php 45,000.00 for her personal interest or for the alleged repairs of the dilapidated rooms and restroom of RTC, Branch, 36, Gapan. The allegation that then Judge Arturo Bernardo of Branch 36 directed her to undertake repairs of dilapidated court rooms and restroom of the branch

⁶ Id. at 13-15.

⁷ Id. at 15.

⁸ Id. at 1-4.

are not supported by affidavits of witnesses and receipts of expenses.

The act undertaken by Ms. Musngi in using her authority to get the cash money for her personal use is a clear case of Grave Misconduct, which, by legal definition, is a “transgression of some established and definite rule of action, more particularly, unlawful behavior as well as gross negligence by a public officer. It is this kind of gross and flaunting misconduct on the part of those who are charged with the responsibility of administering the law and rendering justice that so quickly and surely corrodes the respect for law and the courts without which the government cannot continue and that tears apart the very bonds of our polity[.]” To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions and duties of a public officer, a condition which was clearly applicable in this case when Ms. Musngi, exercising her position as OIC of RTC, Branch 36, retrieved the Php 45,000.00 cash evidence from the OCC-RTC only to spend it for her personal interest.

A clear case of serious dishonesty was likewise committed when Ms. Musngi made claims that the cash evidence taken was used for court room repairs when she could not substantiate the same. Being a law graduate, she also ought to know that it is not appropriate to utilize case evidence for court room repairs. Repairs in the Halls of Justice are within the ambit of the Halls of Justice-Office of the Court Administrator, with assistance of the Local Government Unit concerned.

Though Ms. Musngi restituted the amount of Php 45,000.00 after repeated demands by the Branch Clerk of Court, such restitution does not exculpate her from administrative liability, more so when the amount taken was cash evidence in a criminal case. Restitution, full or otherwise, of the missing amount and obviously misappropriated by her does not absolve her from the offense of Dishonesty, which she admitted to have committed.

RECOMMENDATION: It is respectfully recommended for the consideration of the Honorable Court that:

1) the complaint be RE-DOCKETED as a regular administrative matter; and,

2) Ma. Irissa G. Musngi, Court Legal Researcher II, Regional Trial Court (RTC), Branch 36, Gapan City, Nueva Ecija, be held guilty of Grave Misconduct and Serious Dishonesty, and be DISMISSED from the service with forfeiture of all her benefits, except accrued leave credits, and disqualified from reemployment in any government agency, including government-owned or controlled corporations.⁹

In its 14 December 2011 Resolution,¹⁰ the Court re-docketed the case as a regular administrative matter.

⁹ Id. at 3-4.

¹⁰ Id. at 29.

The Court finds Musngi guilty of dishonesty and grave misconduct. In *Alenio v. Cunting*,¹¹ the Court defined dishonesty and grave misconduct:

Dishonesty is the “disposition to lie, cheat, deceive, defraud or betray; untrustworthiness; lack of integrity; lack of honesty, probity, or integrity in principle; and lack of fairness and straightforwardness.”

Misconduct, on the other hand, is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment. The misconduct must also have a direct relation to and be connected with the performance of the public officer’s official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office.¹²

Both Judge Luyun and the OCA found that Musngi stole the ₱45,000 which was part of the evidence in Criminal Case Nos. 8674, 9096, 9151 and 9152. In his 8 August 2011 report, Judge Luyun stated that:

x x x [O]n February 6, 2006, Ms. Musngi withdrew the said amount from Ms. Pangilinan. By her own admission, Ms. Musngi spent the money for the alleged repair of the previous court’s courtroom, chamber room, an [sic] restroom. However, Ms. Musngi failed to submit receipts in support thereof. Inquiries made with court employees disclosed that the sala of Branch 36, RTC was housed at the old City Hall and all repairs made therein were shouldered by the city government.

In its 28 November 2011 report, the OCA stated that:

x x x [S]he took the money for the wrong reason. There is no law or rule giving her the authority to utilize the cash evidence pf Php 45,000.00 for her personal interest or for the alleged repairs of the dilapidated rooms and restroom of RTC, Branch 36, Gapan. The allegation that then Judge Arturo Bernardo of Branch 36 directed her to undertake repairs of dilapidated court rooms and restroom of the branch are not supported by affidavits of witnesses and receipts of expenses.

x x x x

¹¹ A.M. No. P-05-1975, 26 July 2007, 528 SCRA 159.

¹² Id. at 169.

A clear case of serious dishonesty was likewise committed when Ms. Musngi made claims that the cash evidence taken was used for court room repairs when she could not substantiate the same. Being a law graduate, she also ought to know that it is not appropriate to utilize case evidence for court room repairs. Repairs in the Halls of Justice are within the ambit of the Halls of Justice-Office of the Court Administrator, with assistance of the Local Government Unit concerned.

Though Ms. Musngi restituted the amount of Php 45,000.00 after repeated demands by the Branch Clerk of Court, such restitution does not exculpate her from administrative liability, more so when the amount taken was cash evidence in a criminal case. Restitution, full or otherwise, of the missing amount and obviously misappropriated by her does not absolve her from the offense of Dishonesty, which she admitted to have committed.

The Court finds no reason to disturb the factual finding of Judge Luyun and the OCA that Musngi stole the ₱45,000. Musngi failed to present any evidence to prove that, indeed, she spent the ₱45,000 for the repair of the ceiling and toilet of the trial court. She did not present any receipt for the materials used or for the services engaged for the alleged repairs. She also did not present any affidavit from Judge Bernardo or from other court employees to vouch for the truthfulness of the alleged repairs. Even assuming that Musngi indeed spent the ₱45,000 for court repairs, she would still be liable because she is not authorized to appropriate or spend monetary evidence for whatever purpose.

Musngi's excuse that she spent the ₱45,000 for the repair of the ceiling and toilet of the trial court is unconvincing. In *Office of the Court Administrator v. Pacheco*,¹³ the Court found unconvincing the unsubstantiated explanation that money was spent for alleged court renovations. The Court held that:

Respondent's unsubstantiated explanation that she spent the money derived from the tampered receipts for renovations in the court, is unconvincing. x x x

¹³

A.M. No. P-02-1625, 4 August 2010, 626 SCRA 686.

If her allegations were indeed true, she should have submitted the corresponding disbursement vouchers for labor and purchase receipts of materials utilized in the court's renovation instead of the supposedly corrected receipts. As aptly stated by the OCA, her justification was a lame and desperate attempt to disguise the fact of malversation of the court's collections.¹⁴

Taking monetary evidence without proper authority constitutes theft. In *Judge San Jose, Jr. v. Camurongan*,¹⁵ the Court held that, "The act of taking monetary exhibits without authority from their custodian constitutes theft. Thievery, no matter how petty, has no place in the judiciary. This unlawful act of taking cannot be justified by an alleged intention to safeguard the money from damage that might be caused by the flood."¹⁶

Musngi's acts of stealing the ₱45,000 and saying that she used the amount for the alleged repair of the ceiling and toilet of the trial court constitute grave misconduct and dishonesty. In *Re: Loss of Extraordinary Allowance of Judge Jovellanos*,¹⁷ the Court held that:

While respondent denies the charge, her unsubstantiated disavowal cannot stand against the positive and detailed account of Chua regarding her (Santos) participation in the encashment of check no. 1106739. x x x

x x x x

By stealing and encashing the check of Judge Jovellanos without the latter's knowledge and consent, respondent has shown herself unfit for the confidence and trust demanded by her work as check-processor. Her acts amounted to gross misconduct and dishonesty, and violated the time-honored constitutional principle that a public office is a public trust. Her actuation is a disgrace to the judiciary and erodes the people's faith in the judicial system.¹⁸

Section 52(A)(1) and (3) of the Revised Uniform Rules on Administrative Cases in the Civil Service¹⁹ classify dishonesty and grave

¹⁴ Id. at 696.

¹⁵ 522 Phil. 80 (2006).

¹⁶ Id. at 84.

¹⁷ 441 Phil. 261 (2002).

¹⁸ Id. at 266-269.

¹⁹ Promulgated by the Civil Service Commission through Resolution No. 99-1936 dated 31 August 1999 and implemented by CSC Memorandum Circular No. 19, Series of 1999.


misconduct, respectively, as grave offenses punishable by dismissal for the first offense. Section 58(a) states that the penalty of dismissal carries with it cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from re-employment in the government service.

WHEREFORE, the Court finds respondent Ma. Irissa G. Musngi, Court Legal Researcher II, Regional Trial Court, Judicial Region III, Branch 36, Gapan City, Nueva Ecija, **GUILTY** of **DISHONESTY** and **GRAVE MISCONDUCT**. Respondent Ma. Irissa G. Musngi is **DISMISSED** from the service, with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations.

SO ORDERED.



ANTONIO T. CARPIO
Senior Associate Justice



PRESBITERO J. VELASCO, JR.
Associate Justice



**TERESITA J. LEONARDO-
DE CASTRO**
Associate Justice

(On leave)
ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice

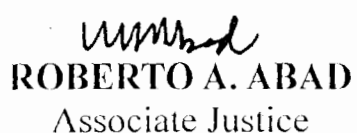
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LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



ROBERTO A. ABAD
Associate Justice



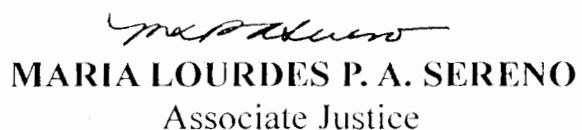
MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



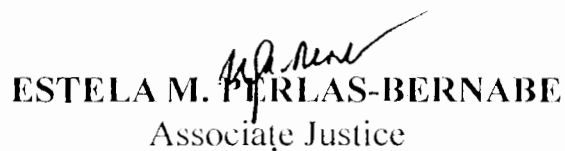
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MARIA LOURDES P. A. SERENO
Associate Justice



BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice