



Republic of the Philippines  
**Supreme Court**  
Manila

EN BANC

**CONCERNED CITIZEN,**  
Complainant,

**A.M. OCA IPI No. 02-1321-P**

Present:

- versus -

**NONITA V. CATENA, COURT  
STENOGRAPHER III,  
REGIONAL TRIAL COURT,  
BRANCH 50, PUERTO  
PRINCESA, PALAWAN,**  
Respondent.

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

Promulgated:

JULY 16, 2013

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x

**DECISION**

**BERSAMIN, J.:**

Gross dishonesty on the part of an employee of the Judiciary is a very serious offense that must be severely punished. Dismissal may be meted on the employee, unless she had meanwhile ceased to be an employee, in which case a high fine shall be imposed.

**Antecedents**

This administrative case stemmed from an undated anonymous letter-complaint charging respondent Nonita Catena (Catena), a Court

\* On leave.

Stenographer III of Branch 50 of the Regional Trial Court in Puerto Princesa City, Palawan (RTC) with gross dishonesty she allegedly committed in connection with her Civil Service eligibility accusing her of having caused another person to take the Civil Service Eligibility Examination in her stead.

The letter reads,<sup>1</sup> thus:

Sir:

I would like to bring to your attention an anomaly brought about by one Noneta Catina.

She is permanently employed as stenographer under the Regional Trial Court (RTC) Branch 50 here in the Justice Hall of Puerto Princesa City.

In 1998, somebody took the stenographer's examination in her behalf in Leyte. She allegedly passed said examination that gave her the permanent position of stenographer in 1998.

May I request for a verification and if found guilty, I hope CSC will do something in fairness to those who are taking your Stenographer's examination.

Thank you very much and more power!

Concerned Citizen

On January 18, 2002, Justice Jose P. Perez, a Member of this Court, as Deputy Court Administrator, forwarded the complaint against Catena for investigation by the Legal Division of the Office of the Court Administrator (OCA). The investigation revealed discrepancies between the pictures, signatures and other details contained in the Career Service Examination permit submitted to the Civil Service Commission (CSC), on one hand, and the 201 file of Catena, on the other.<sup>2</sup>

On February 21, 2002, Justice Presbitero J. Velasco, a Member of this Court, the Court Administrator then, directed Catena to comment within ten days on the anonymous complaint.<sup>3</sup>

Catena implored the OCA for a 30-day extension of the period within which to submit her comment.<sup>4</sup> Despite her request being granted, she failed to submit a comment, causing the Court to issue a tracer letter on September 24, 2002,<sup>5</sup> but still enjoining her to comply with the previous directive to

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<sup>1</sup> *Rollo*, p. 5.

<sup>2</sup> *Id.* at 23.

<sup>3</sup> *Id.* at 14.

<sup>4</sup> *Id.* at 15

<sup>5</sup> *Id.* at 34.

file a comment within five days from notice, or else the complaint would be resolved without her comment.

On August 13, 2003, the OCA recommended that a resolution addressed to Catena's home and office addresses requiring her to comment within 10 days from notice be issued.<sup>6</sup> On October 1, 2003, therefore, the Court, after noting the anonymous complaint, required Catena to comment on it within 10 days from notice.<sup>7</sup>

Catena still failed to comment on the complaint thereafter, prompting the Court to require her on March 17, 2004 to show cause why she should not be disciplinarily dealt with or held in contempt for such failure, and to comply with the October 1, 2003 resolution by submitting the comment within 10 days.<sup>8</sup> Subsequently, on November 24, 2004, the Court issued another resolution to reiterate the show-cause order of March 17, 2004.<sup>9</sup>

On March 9, 2005, however, Judge Nelia Yap-Fernandez of the RTC formally informed the Court that Catena had already resigned from her position effective on January 2, 2003.<sup>10</sup>

In view of this communication, the Court resolved on April 11, 2005, to await the compliance of Catena with the resolution dated November 24, 2004.<sup>11</sup> On September 26, 2005, the Court required Judge Yap-Fernandez to provide Catena's current and correct address within 15 days from notice because Catena continued to ignore the previous resolutions.<sup>12</sup>

Eventually on February 12, 2007, the Court directed the Branch Clerk of Court of the RTC to provide Catena's current and correct address within 10 days<sup>13</sup> because of Judge Yap-Fernandez's intervening disability retirement.<sup>14</sup> In turn, Ms. Jessie C. Gipal, as Officer-in-Charge of the RTC, complied, and furnished Catena's current and correct address to be at Purok Sandiwa, Brgy. New Princess 5300, Puerto Princesa City,<sup>15</sup> which compliance was duly noted on June 25, 2007.<sup>16</sup> Subsequently, on February 4, 2008, the Court considered as served on Catena the previous resolutions of June 25 2007, October 1, 2003, March 17, 2004 and November 24, 2004

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<sup>6</sup> Id. at 35-36.

<sup>7</sup> Id. at 37-38.

<sup>8</sup> Id. at 43.

<sup>9</sup> Id. at 46.

<sup>10</sup> Id. at 47.

<sup>11</sup> Id. at 51.

<sup>12</sup> Id. at 54.

<sup>13</sup> Id. at 63.

<sup>14</sup> Id. at 57.

<sup>15</sup> Id. at 64.

<sup>16</sup> Id. at 67.

because of the return on the service at that address being “Return to Sender-unclaimed.”<sup>17</sup>

On April 28, 2008, the Court resolved anew to await Catena’s comment,<sup>18</sup> and decided to dispense with her comment only on August 20, 2008, and to refer the complaint to the OCA for evaluation, report and recommendation.<sup>19</sup>

The complaint was later on re-docketed as a regular administrative matter on the basis of the recommendation made on October 7, 2009 by Justice Perez, then already the Court Administrator, who recommended that Catena be held liable for dishonesty and be dismissed from the service with prejudice to re-employment in any branch, agency, instrumentality of the government, including government owned and controlled corporations.<sup>20</sup>

On October 26, 2009, the Court required Catena to manifest if she was willing to submit the case for resolution on the basis of the records and pleadings filed within 10 days from notice.<sup>21</sup> On December 13, 2010, the Court resent the resolution because the postal carrier reported that Catena as the addressee had been “out of town” and did not receive the mail matter.<sup>22</sup>

After the subsequent attempt to serve still failed because, as noted on the envelope, Catena as the addressee had “moved out,” the Court deemed the resolution of October 26, 2009 as served on her on April 13, 2011.<sup>23</sup>

Still, on May 30, 2011,<sup>24</sup> the Court directed the Director of the National Bureau of Investigation (NBI) to locate the whereabouts of Catena and to submit a report thereon within 10 days from notice.

On August 5, 2011, Head Agent (HA) Rosauro D. Bautista of the NBI District Office in Puerto Princesa City sent the following report, *viz*:

Respondent, NONITA V. CATENA was located at her residence in Purok Sandiwa, Barangay Tiniguiban, Puerto Princesa but refused to sign the herein NOTICE, nevertheless received the document. Agent of the Puerto Princesa District Office served the herein NOTICE on respondent on July 25, 2011 and the same was communicated to the Office of the Deputy Director for Operations Services in Manila.

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<sup>17</sup> Id. at 75-76.

<sup>18</sup> Id. at 77.

<sup>19</sup> Id. at 79.

<sup>20</sup> Id. at 80-83.

<sup>21</sup> Id. at 84.

<sup>22</sup> Id. at 93.

<sup>23</sup> Id. at 96.

<sup>24</sup> Id. at 98.

Photograph of herein respondent was taken for identification and reference purposes.<sup>25</sup>

On August 9, 2011, NBI Director Magtanggol Gatdula, citing and quoting the foregoing report of HA Bautista, submitted his compliance with the resolution of May 30, 2011,<sup>26</sup> praying that the compliance be accepted.

Hence, we resolve.

### **Ruling**

Based on its investigation, the OCA found discrepancies between the pictures, signatures and other details contained in Catena's Career Service Examination permit submitted to the CSC, on one hand, and those found in her 201 file,<sup>27</sup> on the other; and concluded that she was thereby guilty of gross dishonesty. It recommended her dismissal from the service, with prejudice to re-employment in any branch, agency, instrumentality or agency of the government including government-owned and -controlled corporations.<sup>28</sup>

The findings and recommendation of the OCA, being based on established facts, are well-taken, but we modify the recommended sanction in view of Catena's intervening resignation from the service effective on January 2, 2003.

Let it be said at the outset that Catena's resignation from the service did not cause the Court to lose its jurisdiction to proceed against her in this administrative case. Her cessation from office by virtue of her intervening resignation did not warrant the dismissal of the administrative complaint against her, for the act complained of had been committed when she was still in the service. Nor did such cessation from office render the administrative case moot and academic. Indeed, the Court's jurisdiction at the time of the filing of the administrative complaint was not lost because the respondent had ceased in office during the pendency of the case.<sup>29</sup> Otherwise, exacting responsibility for administrative liabilities incurred would be easily avoided or evaded.

The point of the complaint against Catena is that she misrepresented in her Personal Data Sheet (PDS) that she held a Sub-Professional Civil Service Eligibility, but in truth another person had taken the Civil Service

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<sup>25</sup> Id. at 101.

<sup>26</sup> Id. at 105-106

<sup>27</sup> Id. at 23.

<sup>28</sup> Id. at 82-83.

<sup>29</sup> *Re: Missing Exhibits and Court Properties in Regional Trial Court, Branch 4, Panabo City, Davao del Norte*, A.M. No. 10-2-41-RTC, February 27, 2013.

Examination in her place. Her claim that she held a Sub-Professional Civil Service Eligibility with a rating of 86.48%, as stated in her PDS submitted to the Court, was, therefore, entirely false.<sup>30</sup>

Attempting to disprove the charge that she did not take the eligibility examination herself, Catena submitted her approved leave application and her daily time records corresponding to the period of the eligibility examination. Her submission was really not enough, however, because said documents did not establish that she had herself taken the examination, or that she had been personally at the testing site on the date of the examination. At best, the approved leave application attested only that she had applied for a leave of absence from work, and that her application had been approved, while her daily time records affirmed only that she did not report to her office on the dates that she had supposedly gone on leave.

Perhaps anticipating that her submission of the daily time records and approved leave application would not suffice to support her explanation, she stated in her request for the 30-day extension to file the comment that she would be needing the time to gather the documents she would submit as her evidence to disprove the charge of gross dishonesty,<sup>31</sup> specifically: (1) a certification from the head office of the Negros Navigation Company in Manila, to show that she had travelled from Puerto Princesa City to Iloilo City, and from Cebu City to Leyte on the date of the examination; (2) affidavits of residents of Leyte attesting to her being in the locality of the examination and to her taking the examination herself; (3) records on file with the CSC office in Leyte; and (4) other evidence of similar nature. But ultimately she did not come forward with the promised documentary evidence, notwithstanding her awareness of the desire of the Court to hear her side.

Compounding Catena's situation was her unusual silence on the complaint despite the very ample opportunity accorded her to comment. Being conscious of the gravity of the complaint against her, she should have come forward to explain her side. In that regard, too, we have to stress that the directives for her to comment were not mere requests to be lightly taken, but firm commands to be obeyed without the least delay.<sup>32</sup> What her silence signified was that she had no desire to clear her name and to save her employment in the Judiciary. Worse, her silence now also signifies that she had nothing to say in her own defense, because it was naturally expected of her based on the natural instinct of man for self-preservation to resist the serious charge if it was untrue and unfair. Her silence in the face of the accusation of gross dishonesty was justifiably construed as her implied admission of the truth thereof.<sup>33</sup>

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<sup>30</sup> *Rollo*, p. 9.

<sup>31</sup> *Id.* at 15.

<sup>32</sup> *Grefaldeo v. Lacson*, A.M. No. MTJ-93-881, August 3, 1998, 293 SCRA 524, 527.

<sup>33</sup> *Palon, Jr. v. Vallarta*, A.M. No. MTJ-04-1530, March 7, 2007, 517 SCRA 624, 628.

Considering that Catena's misrepresentation of her eligibility concerned a material fact that enabled her to secure her appointment equated to her deliberate fabrication of the truth concerning her eligibility, she was guilty of gross dishonesty. She should not be allowed to remain in the service of the Judiciary, because no other office in the Government exacted a greater demand for mortal righteousness from an official or employee than a position in the Judiciary.<sup>34</sup>

A finding of dishonesty against an employee in the Civil Service carries with it the penalty of dismissal. Under Rule IV Section 52 (A) (1) of the *Revised Uniform Rules on Administrative Cases in the Civil Service Rules (Revised Uniform Rules)*, dishonesty is classified as a grave offense that is already punishable by dismissal from the service even at the first offense.

In addition, Section 57 and Section 58 of the *Revised Uniform Rules* provide as follows:

Section 57. Administrative Disabilities/Accessories to Administrative Penalties.

- a. Cancellation of eligibility
- b. Forfeiture of retirement benefits.
- c. Disqualification for reinstatement or reemployment.**
- d. Disqualification for promotion.
- e. Bar from taking any Civil Service Examination

Section 58. Administrative Disabilities Inherent in Certain Penalties.

a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.

b. The penalty of transfer shall carry with it disqualification for promotion for a period of six (6) months from the date of respondent reports to the new position or station.

c. The penalty of demotion shall carry with it disqualification for promotion at the rate of two (2) months for every step or one (1) month for every range of salary by which he was demoted to be computed from the date respondent reports to the new position or station.

d. The penalty of suspension shall carry with it disqualification for promotion corresponding to the period of suspension.

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<sup>34</sup> *Anonymous v. Curamen*, A.M. No. P-08-2549, June 18, 2010, 621 SCRA 212, 218.

e. The penalty of fine shall carry with it disqualification for promotion for a period of twice the number of days he was fined.

f. The penalty of fine shall be paid to the agency imposing the same, computed on the basis of respondent's salary at the time the decision becomes final and executor.

g. The following are the Guidelines for the payment of fine:

X X X X

In *Civil Service Commission v. Macud*,<sup>35</sup> the penalty of dismissal was prescribed with the accessory penalties against respondent who had been found guilty of making a false declaration in her PDS that she had passed the Professional Board Examination for Teachers. In *Cruz v. Civil Service Commission*<sup>36</sup> and *Civil Service Commission v. Sta. Ana*,<sup>37</sup> the employees found guilty of similar offenses were dismissed. In *Cruz*, Zenaida Paitim had masqueraded as Gilda Cruz, and had taken the Civil Service examination in lieu of Cruz. Both Paitim and Cruz were meted the penalty of dismissal from the service. In *Sta. Ana*, another person had taken the Civil Service examination for Sta. Ana, who was held guilty of dishonesty and dismissed from the service.

We do not deviate from such precedents. Catena's dismissal from the service is the appropriate penalty, with her eligibility to be cancelled, her retirement benefits to be forfeited, and her disqualification from re-employment in the government service to be perpetual. Nonetheless, we do not forfeit her accrued leave credits to accord with the ruling in *Sta. Ana*.<sup>38</sup>

Catena's intervening resignation necessarily means that the penalty of dismissal could no longer be implemented against her. Instead, fine is imposed, the determination of the amount of which is subject to the sound discretion of the Court.<sup>39</sup> As earlier clarified, the resignation did not prevent this resolution from being made, because resignation should not be used as a convenient means or strategy to evade administrative liability.<sup>40</sup>

Section 56 (e) of Rule IV of the *Revised Uniform Rules* provides that the penalty of fine shall be in an amount not exceeding the salary for six months had respondent not resigned, the rate for which is that obtaining upon at the time of her resignation.

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<sup>35</sup> G.R. No. 177531, September 10, 2009, 599 SCRA 52, 67-68.

<sup>36</sup> G.R. No. 144464, November 27, 2001, 370 SCRA 650, 655.

<sup>37</sup> A.M. No. P-03-1696, April 30, 2003, 402 SCRA 49, 55-56.

<sup>38</sup> *Concerned Citizen v. Abad*, A.M. No. P-11-2907, January 31, 2012, 664 SCRA 478, 482.

<sup>39</sup> *Fernandez v. Vasquez*, A.M. No. RTJ-11-2261, July 26, 2011, 654 SCRA 349, 360-362.

<sup>40</sup> *Re: Administrative Case for Falsification of Official Documents and Dishonesty Against Randy S. Villanueva*, A.M. No. 2005-24-SC, August 10, 2007, 529 SCRA 679, 685



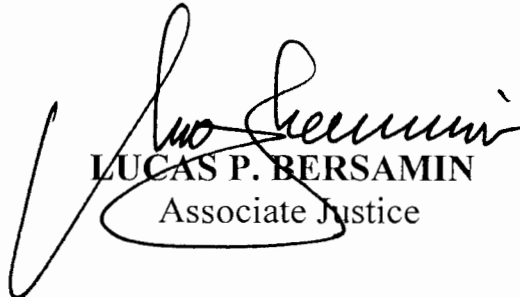
Finally, even though her penalty is a fine, she should still suffer the accessory penalty of perpetual disqualification from re-employment in the Government that the penalty of dismissal carried. A contrary holding would have the undesirable effect of giving the erring employee the means to avoid the accessory penalty by the simple expedient of resigning.

Let it be stressed that all court employees of the Judiciary, being public servants in an office dispensing justice, must always act with a high degree of professionalism and responsibility. Their conduct must not only be characterized by propriety and decorum, but must also be in accordance with the law and court regulations. They should be models of uprightness, fairness and honesty, for that is the only way to maintain the people's respect for and faith in the Judiciary. They should avoid any act or conduct that would diminish public trust and confidence in the courts.<sup>41</sup>

**WHEREFORE**, the Court **FINDS** and **DECLARES NONITA V. CATENA**, former Court Stenographer III, Branch 50, Regional Trial Court in Puerto Princesa City, Palawan, **GUILTY** of **GROSS DISHONESTY**; and **ORDERS** her to pay a **FINE** equivalent to her salary for six months computed at the salary rate for her former position at the time of her resignation, with prejudice to her re-employment in any branch of the Government, including government-owned or -controlled corporations.


In the event that her leave credits are insufficient to answer for the fine, **NONITA V. CATENA** shall pay the fine to the Court within 10 days from the date of finality of this decision.

**SO ORDERED.**



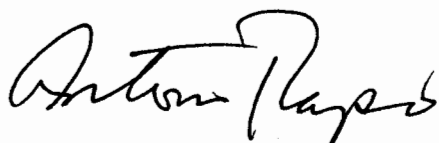
**LUCAS P. BERSAMIN**  
Associate Justice

**WE CONCUR:**

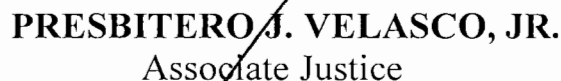


**MARIA LOURDES P. A. SERENO**  
Chief Justice

<sup>41</sup> *Tan v. Quitorio*, A.M. No. P-11-2919, May 30, 2011, 649 SCRA 12, 25.



**ANTONIO T. CARPIO**  
Associate Justice

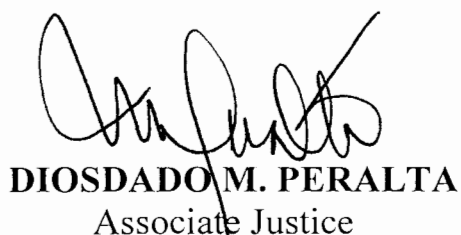


**PRESBITERO J. VELASCO, JR.**  
Associate Justice



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


(On Leave)  
**ARTURO D. BRION**  
Associate Justice



**DIOSDADO M. PERALTA**  
Associate Justice



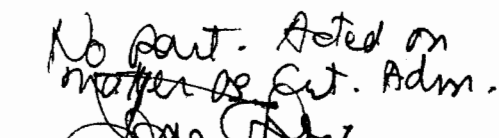
**MARIANO C. DEL CASTILLO**  
Associate Justice



**ROBERTO A. ABAD**  
Associate Justice

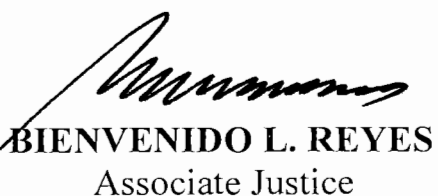


**MARTIN S. VILLARAMA, JR.**  
Associate Justice

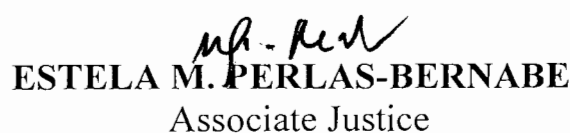
No part. Acted on  
matter as Asst. Adm.  
  
**JOSE PORTUGAL PEREZ**  
Associate Justice



**JOSE CATRAL MENDOZA**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice