



Republic of the Philippines
Supreme Court
 Manila

EN BANC

FRUMENCIO E. PULGAR,
 Petitioner,

A.M. No. P-09-2673
 (A.M. OCA IPI No. 00-857-P)

Present:

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

- versus -

PAUL M. RESURRECCION
and MARICAR M. EUGENIO,
 Respondents.

Promulgated:

October 21, 2014

Maricar M. Eugenio

x-----x

DECISION

PER CURIAM:

Any employee or official of the Judiciary who usurps the functions of another employee or official, or illegally exacts money from law practitioners and litigants is guilty of grave misconduct, and may be dismissed from the service even for the first offense.

The Charge

In his complaint-affidavit dated March 15, 2000, Atty. Frumencio E. Pulgar denounced Court Interpreter Paul M. Resurreccion of the Regional

Trial Court, Branch 276, in Muntinlupa City, for committing acts of extortion, illegal exaction, and blackmail by using his position to extort money from him, a law practitioner, in exchange for non-existent goodwill, and for violation of Administrative Circular No. 31-90.¹

In the course of the investigation of the complaint-affidavit filed against Resurreccion, Court Stenographer Maricar M. Eugenio testified in favor of Resurreccion. She thereby laid the responsibility for the *ex parte* reception of the evidence on Gina Bacayon, then the acting clerk of court. She claimed that being the stenographer recording the *ex parte* presentation of evidence on February 26, 1997, she was the one who had asked for the payment of the transcript of the stenographic notes from Atty. Pulgar. However, her testimony invited suspicion of her covering up Resurreccion's malfeasance, leading to her being likewise investigated and made to answer for dishonesty.

Antecedents

In his complaint-affidavit, Atty. Pulgar set forth Resurreccion's acts in the following manner:²

1. I am the counsel for the petitioner in **Civil Case No. 95-079 entitled Rey O. Chand vs. Armenia P. Chand** for Annulment of marriage based on Art. 36 of the Family Code;
2. The complaint was filed in **April 1996** and eventually the afore-indicated case was set for hearing before the Commissioner on **February 26, 1997**;
3. Herein affiant presented his first and only witness, the petitioner Rey O. Chand and he testified on the factual grounds on why the marriage celebrated between him and the defendant should be dissolved;
4. After the presentation of *ex-parte* evidence, I was being charged by the Acting Clerk of Court, **Paul M. Resurreccion** to whom I paid the first ₱2,000.00 and I promised to pay the balance of ₱3,000.00 on the following day. No receipt was issued to the undersigned;
5. The following day, I sent my Liaison Officer, Oswaldo L. Serdon who brought with him the ₱3,000.00 in cash with my instruction that he pays the Acting Clerk of Court the said amount of ₱3,000.00. My L.O paid the respondent, however the Acting Clerk of Court failed to issue the corresponding receipt;

¹ *Re: Guidelines for allocating the Legal Fees Collected Under Rule 141, as revised, between the General Fund and the Judiciary Development Fund* (October 15, 1990).

² *Rollo*, pp. 3-5.

6. Undersigned being a sucker for public relations and being a practicing lawyer who does not want to cross or antagonize court personnel of Branch 276 by not giving in to his unwarranted exaction although this not embodied nor allowed in the Rules of Court by coming across to the importunings of respondent;
7. Sometime on **June 26, 1997** I received a copy of the Resolution denying our Petition. Undersigned was perturbed by the turn of events because the Acting Clerk of Court promised that he shall be the one to take care of a favorable decision in exchange for the payment that I made. But since, the decision was adverse I did not anymore bother to file a Motion for Reconsideration and again being a sucker for public relations treated the dismissal as one of those things being encountered by a practicing attorney;
8. Sometime on **February 21, 2000** at around 9:00 a.m while I was attending a case before the Sala of the Honorable Norma Perello in People of the Philippines vs. Marlon Velancio, I was approached by the person announcing the cases whom I later or (sic) able to identify as the respondent, and he asked whether I am the Atty. Pulgar who was the counsel of Rey O. Chand in the afore-indicated case of annulment of marriage;
9. I answered in the affirmative. Then all of a sudden Paul M. Resurreccion uttered *“may utang pa kayong dapat bayaran sa akin doon sa kaso ni Rey O. Chand sa ex-parte. Ibinigay na raw sa inyo yung pera pero hindi ninyo naman daw na i-bayad”* the voice of Raul Resurreccion was loud enough to be heard by almost everybody in the Sala. As a matter of fact, another employee butted-in and said **“wala pang ibinabayad kayo Atty.”** And Paul Resurreccion again uttered and said **“ibinigay na sa inyo, aba’y bayaran n’yo na at ng matapos na ang kasong yan”**. I reasoned that the case that he was referring to was already dismissed and as far as I am concerned it was already terminated and I said **“why should I pay again when it was already dismissed. As a matter of fact, I paid already then why are still exacting payment from me?”** Again, in an angry voice respondent reiterated his previous demands. To cut the display of unbecoming behavior of the respondent court personnel I told him **“mabuti pa maghaharap tayo.”**
10. In view thereof, I am formally charging **Paul M. Resurreccion of extortion, illegal exaction, and blackmail** by using his position to extort money from a practitioner in exchange for non-existent goodwill and for violation of Administrative Circular No. 31-90 particularly Sec. 76 which provides: x x x

On May 25, 2000, the Office of the Court Administrator (OCA), acting on the complaint-affidavit, required Resurreccion to submit his comment within ten days from receipt.³

³ Id. at 6.

In his comment,⁴ Resurreccion tendered the following explanations:

Pars. 1, 2 and 3 of the complaint-affidavit are admitted.

Par. 4 is vehemently denied. I did not take the ex-parte presentation of evidence for his client, much more received the initial ₱2,000.00, and the promised ₱3,000.00 the following day, hence, must issue the corresponding receipt. In fact, the testimony of the Petitioner was taken before the Clerk of Court not before this Branch Clerk of Court, who is not a lawyer. The Honorable Judge was then available and in attendance on February 26, 1997. The Resolution denying the Petition was prepared by the Presiding Judge assisted by the Clerk of Court.

Par. 5. If it is true that his Liaison Officer went to my office the following day, and paid the ₱3,000.00, where is the Affidavit of his Liaison Officer attesting that he/she gave any money to me? Again, it is emphasized that ex-parte presentation of evidence, was taken by the Office of the Clerk of Court never by me, the Branch Clerk of Court, hence, no payment, granting there was, will be forthcoming to me. I did nor render any service in connection with this case. Why would this lawyer pay me ₱2,000.00 and be promised ₱3,000.00 more for doing nothing? He is truly confused!

Par. 6 is denied for the same reason as No. 5. I am not an extortionist, much more “importunings.” Even granting this is so, I cannot ask to be paid for doing nothing.

Par. 7 is admitted as the Resolution in that case was sent to complainant, which was adverse to him. The reason why the PETITION was denied, was the negligence of Atty. Pulgar who did not present the Psychiatrist, not even her report, while this Petition is based on psychological incapacity yet. Now he is trying to redeem himself by making it appear that he lost because he did not pay the alleged ₱3,000.00. How cheap can he get. The price[-]of his incompetence is truly minimal. In fact, upon a Motion for Reconsideration by another lawyer, the case was re-opened, the Psychiatrist testimony and report taken, and the decision was reconsidered. His client probably saw his negligence, so he got himself another lawyer. The case was lost due to his negligence, if not ignorance, not because of the lack of ₱3,000.00.

Par. 8. If I ever I talke (sic) with Atty. Pulgar on February 21, 2000 at around 9:00 A.M. it was to remind him about the payment of the transcript, upon the prodding of the stenographer, who had been asking for its payment, from this squelching lawyer, who refused to pay. I only echoed the pleas of said stenographer, who herself attested to the unpaid sum, and seconded my request.

Par. 9. I politely approached Atty. Pulgar, NEVER in a demanding manner as I have no right to the amount due to the stenographer. It was Atty. Pulgar who instead shouted, embarrassed probably, because he knew that his client told us that he had remitted the payment for the TSN to Atty. Pulgar by way of a check, issued to him. But Atty. Pulgar never paid the stenographer for the transcript. All that he paid for was the

⁴ Id. at 7-10.

Commissioner's fee. Surely, if there is any amount due me, I cannot announce this and demand for it in a loud manner, specially, if I am "committing graft." Why would I OPENLY demand the money from Atty. Pulgar in the presence of lawyers and other people. It was him, shame that made him defensive knowing that the sum for the stenographer was kept by him.

Par. 10 is strongly disputed. Asking for any sum from any lawyer or party litigant, much more "extort", is never tolerated in our office. My presiding judge will gun me down, and I mean literally, because she carries a gun, if this is ever done by anyone of her staff.

Finally, it is impossible for me or anyone of us to ask money from the LOSING party, should we ever ask, which never happened!

WHEREFORE, it is respectfully prayed that this baseless, unfounded, tramped-up (sic) and malicious charge by this negligent, penny squelching, and blundering lawyer, who did not pay the TSN even though he received the sum from his client, be dismissed.

Upon the recommendation of then Court Administrator Presbitero J. Velasco, Jr.,⁵ the Court called upon then Executive Judge Norma C. Perello (Judge Perello) of the Regional Trial Court in Muntinlupa City (RTC in Muntinlupa City) to investigate the complaint-affidavit, and to report and submit her recommendations thereon.⁶

On December 12, 2002, Judge Perello submitted her report and recommendation to the OCA, stating that the complaint-affidavit against Resurreccion should be dismissed due to what she perceived as the failure of Atty. Pulgar to substantiate his charge.⁷

On April 24, 2003, however, the OCA rejected the findings and recommendation of Judge Perello, and, instead, recommended that the case be referred to another investigator in the person of Judge Juanita Tomas-Guerrero (Judge Guerrero) of the RTC in Muntinlupa City.⁸ Accordingly, on June 16, 2003, the Court directed Judge Guerrero to conduct further investigation, and to submit her report and recommendation; and to exhaust all possible means to locate Atty. Pulgar.⁹

In the ensuing hearings conducted by Judge Guerrero, Court Stenographer Maricar Eugenio of the RTC in Muntinlupa City testified that it was Gina Bacayon, then acting clerk of court, who had received the evidence *ex parte* in the case of Atty. Pulgar;¹⁰ that being the stenographer

⁵ Id. at 12-14.

⁶ Id. at 14.

⁷ Id. at 38-42.

⁸ Id. at 46-48.

⁹ Id. at 49.

¹⁰ Id. at 284.

who had recorded the *ex parte* presentation of evidence on February 26, 1997,¹¹ she had asked for the payment of the transcript of the stenographic notes from Atty. Pulgar;¹² and that she had submitted a duplicate copy of the transcript of the stenographic notes.¹³

Report and Recommendation of Investigating Judge Guerrero

In her report and recommendation dated October 22, 2003,¹⁴ Judge Guerrero made the following conclusions and recommendations, to wit:

CONCLUSIONS:

PREMISES CONSIDERED, the Court concludes that the following scenarios must have happened on February 26, 1997 and February 21, 2000:

On February 26, 1997, after the case of Rey Chand was called, the Court allowed the petitioner to present evidence *ex-parte* because of the failure of Armenia Chand to file her Answer. As is the practice and being the Acting Branch Clerk of Court, Mr. Resurreccion was allowed to receive the evidence of the petitioner while the Court was busy hearing other cases ready for trial. Since Mr. Resurreccion, being also the Court Interpreter, was needed in the courtroom, he had to call Ms. Gina Bucayon, the Acting Clerk of Court, who is also not a lawyer, to attend to the *ex-parte* proceedings. This is probably the reason why Ms. Bucayon's handwritings appeared in the minutes of February 26, 1997 and why Mr. Resurreccion claimed that he did not know Atty. Pulgar as he had not met him. As was the practice, Atty. Pulgar could have given the fee for the *ex-parte* to Mr. Resurreccion through Ms. Bucayon. Then, Mr. Oswaldo Serdon went to the court office and delivered the balance of the *ex-parte* proceedings but which failed to reach Mr. Resurreccion as he had just left it on a table. In the meantime, the Rey Chand case was dismissed.

Subsequently, while Mr. Chand was following up his case after it was revived, he mentioned that he has paid the commissioner's fee inclusive of stenographer's fee to his lawyer (Atty. Pulgar) for the *ex-parte* proceedings of February 26, 1997. So, when Atty. Pulgar appeared again on February 21, 2000, Ms. Thelma Manlingit who was familiar with Atty. Pulgar, had to call the attention of Mr. Resurreccion about Mr. Pulgar's presence in the courtroom. Mr. Resurreccion, then demanded payment of what was due him as commissioner's fee since he failed to receive it from either Atty. Pulgar or his liaison officer. Atty. Pulgar got irked by the demand for said fee and shouted because as far as he was concerned no amount was due since the Rey Chand case was already dismissed.

¹¹ Id. at 288.

¹² Id.

¹³ Id. at 444-445.

¹⁴ Id. at 617-628.

RECOMMENDATIONS:

Mr. Paul Resurreccion could not be held liable for extorting money from Atty. Pulgar because Extortion is defined as compelling of a person by a wrongful and illegal means (duress, threats, etc.) to give up money or property. There was neither force nor intimidation committed by Mr. Resurreccion in demanding money from a lawyer or litigant.

However, the Court finds Mr. Resurreccion guilty of exacting money for some legal fees that do not exist. While Sec. 6, Rule 130 of the 1997 Rules of Procedure allows a judge to delegate the reception of evidence to its clerk of court who is a member of the bar in defaults or *ex-parte* hearings, the Supreme Court does not give the commissioner the privilege to collect money from the litigant or lawyer as legal fees for this purpose. Rule 141 of the Rules of Court enumerates the numerous legal fees that may be collected by the courts, commissioner's fees for receiving evidence are not one of them. The demand thereof under the guise of a commissioner's fee is illegal and tantamount to conduct grossly prejudicial to the best interest of the service.

Employees of the Judiciary are expected to be examples of integrity, honesty and uprightness. Their conduct should be characterized by propriety and decorum. Mr. Paul Resurreccion being the designated Acting Branch Clerk of Court of RTC Branch 276 should be an exemplar of all these characteristics. **The Manual of Clerks of Court that prohibits the collection of commissioner's fees in an *ex-parte* proceeding binds him.** Furthermore, he and his lawyer's act of dictating upon his witness, Rey O. Chand on what to say in an investigation is detestable and contumacious, to say the least, he being a judicial employee whose main task is to see to it that the administration of justice is upheld.

The Respondent's actions also caused needless anxiety and shame on the part of the complainant thereby diminishing the latter's faith not only with the Regional Trial Courts of Muntinlupa but in the entire Judiciary. The gradual erosion of public confidence in the Judiciary caused by the failure of Mr. Resurreccion to uphold the objective of the Supreme Court in improving public service and preserving the people's faith and confidence in the government, is constitutive of the offense Conduct Grossly Prejudicial to the Best Interest of the Service for which respondent must be made answerable.

x x x x

As this is the first time that the respondent committed the act complained of, it is hereby recommended that MR. PAUL RESURRECCION be suspended for one (1) year from service without pay. Any repetition of the same act shall be dealt with more severely.¹⁵

In addition, Judge Guerrero found impropriety on the part of Eugenio, observing:

¹⁵ Id. at 625-627.

As an aside: Equally detestable is the attempt of the other court employees of the Regional Trial Court, Branch 276 more particularly, Ms. Maricar M. Eugenio to cover up the wrongdoings of their comrade by testifying falsely, should not go unchecked. Ms. Eugenio should also be penalized for trying to mislead the Court by making such false testimony. Her actuation amounts to neglect in the performance of [her] official function as co-player in the administration of justice. The undersigned recommends that she be reprimanded.¹⁶

First Report of the OCA

In its memorandum for the Court dated July 6, 2009,¹⁷ the OCA rendered its own findings based on the report and recommendation of Judge Guerrero, and recommended: (a) that Resurreccion be dismissed from the service; and (b) that Eugenio be ordered to explain why she should not be held administratively liable, *viz*:

WHEREFORE, in view of the foregoing, respectfully submitted for the consideration of the Honorable Court, are the following recommendations:

1. That this instant administrative complaint be **REDOCKETED** as a regular administrative matter;
2. That respondent Paul M. Resurreccion be found **GUILTY of Grave Misconduct** for:
 - 1.1) committing gross violation of the following:
 - a) Circular No. 50-2001, August 21, 2001, Unauthorized Collection of Fees or Amount of Compensation by Clerks of Court for Reception of Evidence *Ex-Parte* for demanding commissioner's fee in *ex-parte* proceedings;
 - b) Section 9, Rule 30, 1997 Rules of Civil Procedure, which requires that only a member of the bar may sit as commissioner to receive evidence *ex-parte* in default or *ex-parte* hearings;
 - c) Republic Act No. 6713, Section 7, Paragraph (d) which prohibits public officials and employees from soliciting or accepting "directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the function of their office.
 - 1.2) inducing his witness Rey O. Chand to give false testimony;
3. That respondent Paul M. Resurreccion be **DISMISSED** from the service with forfeiture of all benefits, excluding accrued leave credits,

¹⁶ Id. at 627.

¹⁷ Id. at 637-646.

with prejudice to re-employment in any branch or agency of the government, including government-owned or controlled corporations; and

4. That Maricar M. Eugenio, Court Stenographer, Regional Trial Court, Branch 276, be **DIRECTED to COMMENT**, within ten (10) days from notice, why she should not be held administratively liable for grave misconduct for giving false testimony in the administrative proceedings of the case and for making fictitious and excessive claim for payment of non-existent Transcript of Stenographic Notes.¹⁸

In view of the recommendation of the OCA as to her, the Court required Eugenio to show cause why she should not be held administratively liable for grave misconduct.¹⁹

On November 13, 2009, Eugenio proffered her comment, denying giving false testimony in favor of Resurreccion and stating as follows:

I did not give false testimony in the administrative proceedings conducted by Hon. Judge Guerrero and for making fictitious and excessive claim for payment of a non-existent transcript of stenographic notes (TSN for short). I only told the truth as I am a God-fearing person. Nowhere in my testimony that I demanded excessive claim for the payment of TSN and admitted before the Honorable Judge that I was asking for the payment of my TSN in connection with the case of Rey Chand which was already terminated. When I was asked how much was I am demanding for the payment of said TSN, I simply stated “Wala po akong sinabing amount”, so how could I be charged for making fictitious and excessive claim for payment of non-existent transcript of stenographic notes? My answer on Page 35, TSN dated August 14, 2003 on the question of the Court: is that the duty of the lawyer to pay the tsn or the client? And the answer reflected on the said tsn which I quote “A: What I know is that in the payment of commissioner’s fee is the payment of transcript of stenographic notes”, which the interpretation is not correct, I answered in vernacular during that said hearing is: “Ang pagkakaalam ko po ang bayad sa tsn ay kasama na doon sa commissioner’s fee”. I was even asked by Atty. Pulgar about my educational attainment, and the answer as stated in the said tsn is Secretary, which is very erroneous. The answer should be Secretarial. Also in the said hearing, I was asked by the Court where is the said transcript, I told the Honorable Judge, I will just bring the same to her. So after the said hearing, I looked for the said TSN and gave the same to one of Judge Guerrero’s staff, as she, the staff, even went to our office to ask for the same. I gave her the said tsn together with the diskette. If the said transcript of stenographic notes is inexistent, how could then Judge Perello finished (sic) her Resolution/Decision regarding the annulment case of Mr. Rey Chand if no transcript of stenographic notes was ever attached to the case record as it was an ex-parte presentation of Petitioner’s evidence? Of course, Judge Perello could not decide the same, as it was taken ex-parte.

¹⁸ Id. at 645-646.

¹⁹ Id. at 648.

As a matter of fact, the Resolution/Decision of the said Annulment case has already been issued and its finality was given likewise. I did not lie in my testimony before Honorable Judge Guerrero. What I told is only the truth and I was innocent of the charges imputed in my person. Even without the presence of a lawyer, I testified to tell the truth about the charge against Mr. Paul Resurreccion. I did not give a false testimony and for making a fictitious and excessive claim for the payment of a non-existent transcript of stenographic notes, as in fact I furnished the said tsn to the Office of Honorable Judge Guerrero, together with the diskette, when I was required to do so.²⁰

Second Report of the OCA

In its July 22, 2011 memorandum,²¹ the OCA stated its findings and recommendations on the administrative liability of Eugenio, to wit:

For deliberately offering false testimony during the investigatory hearing, there is substantial evidence that respondent Eugenio committed the act of dishonesty. It behooved respondent Eugenio to testify truthfully in accordance with the oath she took before her testimony was taken during the investigation conducted by Investigating Judge Guerrero. Sadly, she disregarded the sanctity of her oath due to her misplaced loyalty to respondent Resurreccion. Time and time again, the Court has stressed that every employee of the judiciary should be an example of integrity, uprightness and honesty. Like any public servant, she must exhibit the highest sense of honesty and integrity not only in the performance of her official duties but most especially when she herself is on the witness stand, to preserve the court's good name and standing.

Moreover, respondent Eugenio's failure to attach the T.S.N taken on 26 February 1997 amounts to simple neglect of duty which is classified as a less grave offense under subsection B(1) of the same section and is penalized by suspension of one (1) month and one (1) day to six (6) months for the first offense and dismissal for the second offense. This is her second infraction of such nature in her eighteen (18) years of service in the Judiciary. As earlier mentioned, the Court extended its compassion the first time respondent Eugenio committed simple neglect of duty and imposed upon her the penalty of a fine instead of suspension. The instant case is, however, significantly different in that, aside from committing simple neglect of duty, she further committed an act constituting dishonesty which is a more serious offense.

X X X X

Premises considered, it is respectfully recommended that:

1. Respondent Maricar M. Eugenio, Court Stenographer, RTC Branch 276, Muntinlupa City be **IMPLEADED** as a co-respondent in the administrative matter; and

²⁰ Id. at 656-658.

²¹ Id. at 664-679.

2. Respondent Maricar M. Eugenio be found GUILTY of dishonesty and simple neglect of duty, imposing upon her the penalty of SUSPENSION of SIX (6) months without pay, with a stern warning that commission of the same or similar acts in the future will be dealt with more severely.²²

Ruling of the Court

We consider and declare the findings of the OCA fully warranted.

Enshrining the tenet that a public office is a public trust, Section 1, Article XI of the 1987 Constitution mandates that public officers and employees, who are servants of the people, must at all times be accountable to them, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives. To enforce this constitutional tenet, the Court has incessantly reminded that officials and employees involved in the administration of justice should faithfully adhere to their mandated duties and responsibilities. Any act of impropriety on their part – whether committed by the highest judicial official or by the lowest member of the judicial workforce – can greatly erode the people’s confidence in the Judiciary. This is because the image of a court of justice is necessarily mirrored in the conduct of its personnel; hence, it becomes their constant duty to maintain the good name and standing of the Judiciary as a true temple of justice.²³

At the time material to this administrative case, Resurreccion was the Court Interpreter of Branch 276 of the RTC in Muntinlupa City. In order to maintain the trust and confidence of the people in the Judiciary, therefore, he should have acted within the limits of his authority as such. Although his Presiding Judge designated him as commissioner to receive evidence *ex parte* in some cases, he still could not discharge or perform that task because he was not a member of the Philippine Bar, and thus had no authority whatsoever to act or serve as such commissioner to receive the evidence *ex parte* of any of the parties. But, as the records indicated, he served as such commissioner. His deliberate assumption of the duties of a commissioner for that purpose blatantly transgressed the limits of his official functions as the Court Interpreter, and constituted unmitigated usurpation of powers. Such irregularity was undeniable, because the language of Section 9, Rule 30 of the *Rules of Court*, of which he and his Presiding Judge were well aware, was straightforward and unequivocal, *viz*:

²² Id. at 678-679.

²³ *Galindes v. Susbilla-De Vera*, A.M. No. P-13-3126 (Formerly A.M. OCA IPI No. 09-3273-P), February 4, 2014, 715 SCRA 172. See also *Velasco v. Baterbonia*, A.M. P-06-2161 (Formerly A.M. OCA IPI No. 05-2115-P), September 25, 2012, 681 SCRA 666, 673; *Office of the Court Administrator v. Recio*, A.M. No. P-04-1813 (Formerly A.M. No. 04-5-119-MeTC), May 31, 2011, 649 SCRA 552, 566-567.

Section 9. *Judge to receive evidence; delegation to clerk of court.*

— The judge of the court where the case is pending shall personally receive the evidence to be adduced by the parties. **However, in default or ex parte hearings, and in any case where the parties agree in writing, the court may delegate the reception of evidence to its clerk of court who is a member of the bar.** The clerk of court shall have no power to rule on objections to any question or to the admission of exhibits, which objections shall be resolved by the court upon submission of his report and the transcripts within ten (10) days from termination of the hearing. (n)

Compounding the usurpation of powers was the more serious offense of illegally exacting fees from litigants and their lawyers or representatives. It is worth mentioning that Circular No. 50-2001, which proscribed the unauthorized collection of fees or amounts of compensation by clerks of court for their reception of evidence *ex parte*, was issued only on August 21, 2001. Even then, Resurreccion could not feign ignorance of the prohibition because the Manual of Clerks of Court, which had been issued long before the issuance of Circular No. 50-2001, already contained a similar prohibition that explicitly stated: *No Branch Clerk of Court shall demand and/or receive commissioner's fees for reception of evidence ex-parte.*²⁴

In view of the foregoing, the recommendation of the OCA for the immediate dismissal of Resurreccion from the service is warranted. His acts of dishonesty, usurpation of official functions and illegal exaction demanded that we classify his acts as grave misconduct. In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule must be manifest. They were so in his case. Corruption as an element of grave misconduct consisted in his acts of unlawfully or wrongfully using his position or character of his office to procure some benefit for himself or for another, contrary to the rights of others.²⁵ The collection of the fees had no legal basis whatsoever; hence, his illegal exactions were outrightly and plainly corrupt. It then becomes unavoidable for us to judge his transgressions as motivated by the lust for money and power, rather than having proceeded from his unfamiliarity with standing rules and guidelines.

Dismissal from the service was called for because of the grave nature of Resurreccion's offense. He thereby revealed his absolute unworthiness to remain in the service of the Judiciary. Indeed, he should not be allowed to serve a minute longer in the Judiciary lest the reputation and integrity of the service be prejudiced. Under Section 46, Rule 10 of the Revised Rules on Administrative Cases in the Civil Service, serious dishonesty and grave misconduct, among others, are grave offenses punishable by dismissal from the service.

²⁴ Cited in *RTC Makati Movement Against Graft And Corruption v. Dumlao*, A.M. No. P-93-800, August 9, 1995, 247 SCRA 108, 118.

²⁵ *Supra* note 23, at 179.

As to Eugenio, the OCA justifiably pointed out that her evident intention in testifying in the investigation of Resurreccion was to refute the charge that he had been the one who had conducted the *ex parte* hearing on February 26, 1997 despite his being not qualified to do so.²⁶ It was quite obvious that she wanted to give the impression that it was physically impossible for Resurreccion to demand the commissioner's fee from Atty. Pulgar if a different person had received the evidence *ex parte*. Such thinly veiled attempt to mislead the investigator in the quest for the truth during the administrative hearings constituted simple dishonesty nonetheless, considering that Judge Guerrero's clear judicial vision still saw through the attempt in order to reach the most logical conclusion that:

x x x As is the practice and being the Acting Branch Clerk of Court, Mr. Resurreccion was allowed to receive the evidence of the petitioner while the Court was busy hearing other cases ready for trial. Since Mr. Resurreccion, being also the Court Interpreter, was needed in the courtroom, **he had to call Ms. Gina Bucayon, the Acting Clerk of Court, who is also not a lawyer, to attend to the *ex-parte* proceedings. This is probably the reason why Ms. Bucayon's handwritings appeared in the minutes of February 26, 1997 and why Mr. Resurreccion claimed that he did not know Atty. Pulgar as he had not met him. As was the practice, Atty. Pulgar could have given the fee for the *ex-parte* to Mr. Resurreccion through Ms. Bucayon. Then, Mr. Oswaldo Serdon went to the court office and delivered the balance of the *ex-parte* proceedings but which failed to reach Mr. Resurreccion as he had just left it on the table.** x x x.²⁷

Simple dishonesty is categorized as a less grave offense, and is punishable by suspension of one month and one day to six months for the first offense; six months and one day to one year for the second offense; or dismissal for the second offense. In *Santiago v. Jovellanos*,²⁸ we meted suspension of four months with a warning to a branch clerk of court of the MTC in Pangasinan for her false testimony. In the case of Eugenio, we should suspend her from the service without pay for six months, a penalty that the Court hopes will quickly bring her to realize the seriousness of her offense. Although this is not her first administrative case, she being already held administratively liable for simple neglect of duty and meted a fine of ₱5,000.00 for not transcribing her stenographic notes in relation to *habeas corpus* proceedings,²⁹ such previous case is not a factor here because of the dissimilarity of the offenses. Even so, she has to be warned to be more prudent in her actuations as an employee of the Judiciary.

²⁶ OCA Memorandum dated July 22, 2011.

²⁷ *Rollo*, p. 626 (Emphasis supplied).

²⁸ Adm. Mat. No. MTJ-00-1289 (Formerly A.M. No. OCA-IPI-96-216-MTJ), August 1, 2000, 337 SCRA 21, 35.

²⁹ *Office of the Court Administrator v. Judge Perello*, A.M. No. RTJ-05-1952, December 24, 2008, 575 SCRA 394.

WHEREFORE, the Court:

1. FINDS AND PRONOUNCES Court Interpreter **PAUL M. RESURRECCION** of Branch 276, Regional Trial Court, in Muntinlupa City **GUILTY** of **GRAVE MISCONDUCT**; and **DISMISSES** him from the service, with forfeiture of all benefits except accrued leave credits and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned and -controlled corporations;

2. DECLARES Court Stenographer **MARICAR EUGENIO** of Branch 276, Regional Trial Court, in Muntinlupa City **GUILTY** of **SIMPLE DISHONESTY**; and **SUSPENDS** her from the service for six months without pay, with a warning that a repetition of the same or similar act shall be dealt with more severely; and

3. ORDERS Court Interpreter **PAUL M. RESURRECCION** to **RESTITUTE** to Atty. Frumencio E. Pulgar within 30 days from his receipt of this decision the amount of ₱5,000.00.

This decision is **IMMEDIATELY EXECUTORY**.

SO ORDERED.




MARIA LOURDES P. A. SERENO
Chief Justice




ANTONIO T. CARPIO
Associate Justice


(On Leave)

PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice

(On Leave)
MARIANO C. DEL CASTILLO
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

No part. Acted as Cit. Adm.

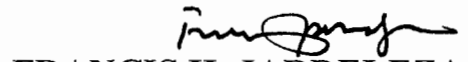
JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice

Ms. Keat
ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice