



Republic of the Philippines
Supreme Court
Manila

EN BANC

ROLANDO GANZON,
Petitioner,

G.R. No. 174321

Present:

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.*:

- versus -

FERNANDO ARLOS,
Respondent.

Promulgated:

OCTOBER 22, 2013

x-----x

DECISION

BERSAMIN, J.:

A government employee who is found guilty of grave misconduct may be dismissed from the service even upon the first offense.

The Case

Petitioner Rolando Ganzon, an employee of the Department of Interior and Local Government (DILG), seeks the reversal of his dismissal from the service and the accessory penalties on the ground of grave misconduct.

Antecedents

The DILG Regional Office in Port San Pedro, Iloilo City held its Christmas party on December 17, 1999 at the office parking lot. When the Christmas party was about to end at 7:30 in the evening, respondent Fernando Arlos (Arlos), then the OIC Provincial Director of DILG, left to get some documents from the Office of the Operations Division located at the second floor of the building. While Arlos was making his way to the stairs, Ganzon suddenly approached and pulled out a short firearm of unknown caliber from his waist and with no provocation pointed the firearm at Arlos, angrily shouting in Ilongo: *Nanding, hulat anay. Diin ang boss mo? Nga-a nga wala man nya ako guin-patawag?*¹ Arlos responded: *Ato ti sir Orendez sa may program. May kuhaon lang ako sa ibabaw.*² Arlos parried Ganzon's firearm-wielding hand and tried to proceed towards the stairs, but Ganzon blocked his path, pushed him back, and again pointed the firearm at Arlos' chest. Sensing that Ganzon would shoot him then, Arlos quickly warded off Ganzon's firearm-wielding hand. At that instant, the firearm exploded and the bullet hit the floor. Ganzon again aimed the firearm at Arlos, prompting the latter to run away as fast as he could. Ganzon followed Arlos, and when they got to the gate of the building, Ganzon once more pushed him back and pointed the firearm at him, saying: *Patay ka!*³ Ganzon held the firearm close to his waistline to conceal it from the view of the other people present at the time.

At around 9:45 in the morning of December 21, 1999, Arlos went to the DILG office to see the Regional Director upon the latter's instruction. Ganzon, who was then standing near the entrance to the building, shouted upon seeing Arlos enter the gate: *O, ti ano?*⁴ obviously still referring to the incident of December 17, 1999. Arlos answered: *Ang kadto ko diri indi away, kundi makigkita ako sa kay Director.*⁵

The incidents of December 17, 1999 and December 21, 1999 impelled Arlos to administratively charge Ganzon with grave misconduct.

On his part, Ganzon denied the charge and elected to undergo a formal investigation. During the formal investigation conducted by Regional Office No. 6 of the Civil Service Commission (CSC Regional Office), the parties agreed that in order to dispense with the presentation of witnesses and other evidence, they would just adopt the evidence presented in the pending criminal prosecution for attempted homicide (Criminal Case

¹ Translated:- "*Nanding, for a moment, where is your boss? [referring to Provincial Director Eliseo D. Orender] Why did he not call for me?*"

² Translated:- "*Sir Orendez is there in the program. I am just getting something from upstairs.*"

³ Translated:- "*You're dead.*"

⁴ Translated:- "*What now?*"

⁵ Translated:- "*I came here not to quarrel, but only to see the Director.*"

No. 648-2000 entitled *People v. Ganzon*) in the Municipal Circuit Trial Court (Branch 1) in Iloilo City arising from the same incident.⁶ Accordingly, Arlos was directed to submit the complete transcripts of stenographic notes of the proceedings in Criminal Case No. 648-2000.

The witnesses for the Prosecution in Criminal Case No. 648-2000 were Arlos, DILG employee Nestor Sayno, DILG Provincial Director Eliseo Orendez, and Fernando Totesora, Jr., the security guard then assigned at the DILG Regional Office. They attested to what had transpired in the evening of December 17, 1999, specifically, that Ganzon had threatened and aimed a firearm at Arlos.⁷

In his turn, Ganzon presented himself and two others, namely, Bobby Pepino, also an employee of the DILG Regional Office, and Voltaire Guides.⁸ They described a different version of the incident, to wit:

ROLANDO GANZON testified that he is presently assigned with the Planning Unit of DILG. He has been connected with the DILG for twenty-five (25) years. From 1994 to 1999 he was assigned as DILG Officer of the Municipality of Barotac Viejo, Iloilo. In September 1999, he transferred to the Regional Office. On December 17, 1999, about 7:30 in the evening, he was with Bobby Pepino and Voltaire Guides waiting for the drinks to be served to guests in their Christmas Party. Fernando Arlos arrived and asked them what they were doing at the lobby. He answered that they were waiting for the drinks to be served.

Fernando said that they should be getting better performance ratings. He immediately responded that sometimes performance ratings are disregarded or even changed. Fernando got angry, and in order to avoid further discussion, Rolando stood up. At that time, guests were starting to arrive. Fernando pushed his body against Rolando at the same time raising his right hand. Rolando held his hand; Fernando raised his left but again Rolando held it. They then pushed and shoved each other to the gate.

At the gate, Fernando immediately left. Rolando went back to the administrative office to take his dinner. After eating, he went to the quadrangle to watch the program. At the quadrangle, he saw Provincial Director Orendez, Regional Director Reyes, and Presidential Consultant Jonathan Sanico. He stayed there up to 2 o'clock in the morning. During that time no policeman came to arrest him.

He further testified that before the incident he had no grudge or ill feeling against Fernando Arlos. He also testified about the hole located at the lobby of the Regional Office. He said that no shell or slug was recovered in connection with the subject incident. He testified about the change made on his performance rating and that he would often meet

⁶ *Rollo*, p. 15.

⁷ *Id.* at 15-19.

⁸ *Id.* at 19-23.

Fernando Arlos and no altercation or heated argument transpired between them.⁹

Ruling of CSC Regional Office

On February 7, 2002, the CSC Regional Office rendered its decision finding Ganzon guilty of grave misconduct, ruling thusly:

WHEREFORE, Rolando Ganzon is hereby found guilty of Grave Misconduct and meted out the penalty of dismissal from the service with all its accessory penalties.

Let copies of this Decision be furnished Fernando Arlos, Rolando Ganzon, Atty. Virgilio Teruel, Atty. Rey Padilla, Director Rexdito Reyes of DILG Regional Office No. 6, Iloilo City, the GSIS Branch Manager in Iloilo City and Director Purita H. Escobia of CSC Iloilo Provincial Office at their known addresses.¹⁰

Ruling of CSC Main

Ganzon appealed to the Civil Service Commission Main Office (CSC), which affirmed the contested ruling of the CSC Regional Office on January 27, 2004, to wit:

WHEREFORE, the instant appeal is hereby **DISMISSED**. The decision of the Civil Service Regional Office No. VI finding Rolando Ganzon guilty of grave misconduct and penalizing him with dismissal from the service, is affirmed in all aspects. It should be understood that the penalty of dismissal as imposed in this case carries with it such accessory penalties as forfeiture of retirement benefits, and disqualification from public employment.¹¹

Ganzon moved for a reconsideration, but his motion to that effect was denied through the resolution dated November 9, 2004.

Ruling of the Court of Appeals

Ganzon appealed by petition for review in the Court of Appeals (CA), submitting the following issues, namely:

1. WHETHER OR NOT THE ACT ALLEGEDLY COMMITTED BY THE PETITIONER WAS ESSENTIALLY CONNECTED WITH THE PERFORMANCE OF HIS OFFICIAL DUTIES.

⁹ Id. at 21-23.

¹⁰ Id. at 223.

¹¹ Id. at 223-224.

2. WHETHER OR NOT THE OFFENSE CHARGED CAN BE CONSIDERED AS SERVICE CONNECTED DESPITE THE FACT THAT IT IS NOT ESSENTIALLY CONNECTED WITH THE OFFICE OF THE PETITIONER AND WAS NOT PERPETRATED WHILE IN PERFORMANCE OF HIS OFFICIAL FUNCTION.

3. WHETHER OR NOT THE CIVIL SERVICE COMMISSION CAN HOLD LIABLE THE PETITIONER FOR GRAVE MISCONDUCT DESPITE HIS ACQUITTAL IN THE CRIMINAL CASE FILED AGAINST HIM.

4. WHETHER OR NOT THE PENALTY OF DISMISSAL IS UNJUST AND EXCESSIVE.¹²

On February 15, 2006, the CA promulgated its assailed decision affirming the ruling of the CSC,¹³ thus:

WHEREFORE, finding no merit in the present petition, the same is hereby **DISMISSED** and the assailed judgments **AFFIRMED *in toto***. Costs against petitioner.

SO ORDERED.

On August 3, 2006, the CA denied Ganzon's motion for reconsideration.¹⁴

Issues

Hence, Ganzon has appealed to the Court upon the following issues:

I.

WHETHER OR NOT ATTENDING A CHRISTMAS PARTY AS REQUIRED BY THE OFFICE IS AN OFFICIAL FUNCTION AND THAT ANY UNTOWARD INCIDENT COMMITTED DURING SUCH CHRISTMAS PARTY IS AUTOMATICALLY CONSIDERED SERVICE RELATED AND THAT THE OFFENDER COULD BE LIABLE FOR GRAVE MISCONDUCT?

II.

WHETHER OR NOT THE ALLEGED ACT COMMITTED BY THE PETITIONER WAS INTIMATELY RELATED TO HIS OFFICE IN ORDER TO CONSIDER IT AS GRAVE MISCONDUCT IN THE CONTEMPLATION OF THE LAW.

¹² Id. at 43.

¹³ Id. at 38-47.

¹⁴ Id. at 48-59.

III.
WHETHER OR NOT THE PENALTY OF DISMISSAL IS UNJUST
AND EXCESSIVE.¹⁵

Ruling of the Court

The appeal has no merit.

Misconduct is intentional wrongdoing or deliberate violation of a rule of law or standard of behavior. 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. In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule must be manifest.¹⁶

In accordance with Section 46 of Subtitle A, Title I, Book V of the *Administrative Code of 1987* (Executive Order No. 292), misconduct is among the grounds for disciplinary action, but no officer or employee in the Civil Service shall be suspended or dismissed except for cause as provided by law and after due process. It is cogent to mention that the *Revised Uniform Rules on Administrative Cases in the Civil Service*, which governs the conduct of disciplinary and non-disciplinary proceedings in administrative cases, classifies grave misconduct as a grave administrative offense.¹⁷

Did Ganzon's act of aiming his loaded firearm at Arlos and menacing him with it constitute grave misconduct in the context of the foregoing provisions?

Undoubtedly it did. Drawing and pointing the loaded firearm at Arlos evinced the intent on the part of Ganzon to cause some harm upon Arlos on whom he vented his resentment of the poor performance rating he received. Considering that Ganzon pointed his loaded firearm at Arlos not only once, but four times, Ganzon's menacing acts engendered in the mind of Arlos the well-founded belief that Arlos' life could be in imminent danger. That the firearm exploded when Arlos parried Ganzon's firearm-wielding hand did not help dissipate the belief.

Nonetheless, Ganzon projects that his acts did not constitute grave misconduct in the contemplation of the law because they were not

¹⁵ Id. at 24.

¹⁶ *Narvasa v. Sanchez, Jr.*, G.R. No. 169449, March 26, 2010, 616 SCRA 586, 591.

¹⁷ Rule IV, Section 5, *Revised Uniform Rules on Administrative Cases in the Civil Service*, Civil Service Commission Memorandum Circular 19, Series of 1999, August 31, 1999.

committed in relation to his performance of duty; and that the Christmas party was not an official function as to render any untoward incident committed on the occasion thereof a misconduct. He posits that his offense could exist without the office; and that the holding of the office was not a constituent element of his offense.

We disagree.

The Court stressed in *Largo v. Court of Appeals*¹⁸ the criteria that an act, to constitute a misconduct, must not be committed in his private capacity and should bear a direct relation to and be connected with the performance of his official duties.

Ganzon's acts met the criteria in *Largo v. Court of Appeals*. To begin with, he was not acting in a private capacity when he acted menacingly towards Arlos, it being clear that his resentment of his poor performance rating, surely a matter that concerned his performance of duty, motivated his confronting the latter. Moreover, it did not matter that his acts were committed outside of office hours, because they were intimately connected to the office of the offender. An act is intimately connected to the office of the offender if it is committed as the consequence of the performance of the office by him, or if it cannot exist without the office even if public office is not an element of the crime in the abstract. This was the thrust in *Alarilla v. Sandiganbayan*,¹⁹ with the Court citing ample jurisprudence.²⁰

In *Alarilla v. Sandiganbayan*, one of the two main issues was whether the crime of grave threats charged against the accused had been committed in relation to his office. The resolution of the issue would determine whether or not it was the Sandiganbayan that had jurisdiction to try him. The accused contended that it was not established that the crime charged had been committed by him while in the discharge of or as the consequence of his official functions as municipal mayor. He pointed out that public office was not an essential ingredient of grave threats, the crime charged, which could be committed with the same facility by a public officer and a private individual alike. The Court resolved that the crime charged was properly within the jurisdiction of the Sandiganbayan because the amended information contained allegations showing that Alarilla had taken advantage of his official functions as municipal mayor when he committed the crime of grave threats against the complainant, a municipal councilor, by aiming a gun at and threatening to kill the latter on the occasion of a public hearing during which the latter delivered a privilege speech critical of Alarilla's

¹⁸ G.R. No. 177244, November 20, 2007, 537 SCRA 721.

¹⁹ G.R. No. 136806, August 22, 2000, 338 SCRA 485, 497.

²⁰ *Cunanan v. Arceo*, G.R. No. 116615, March 1, 1995, 242 SCRA 88; *Sanchez v. Demetriou*, G.R. No. 111771-77, November 9, 1993, 227 SCRA 627; *People v. Montejo*, 108 Phil 613 (1960); *Montilla v. Hilario*, 90 Phil 49 (1951).

administration. The Court explained that the crime charged was “intimately connected with the discharge of [Alarilla’s] official functions” because the crime charged was Alarilla’s response to the complainant’s attack against his performance as a mayor; and that if Alarilla was not the mayor, “he would not have been irritated or angered by whatever private complainant might have said during said privilege speech.”²¹

Considering that Ganzon resented the poor performance rating he had received, and his resentment caused his aggressive confrontation of Arlos, it definitely appears that Ganzon’s offense could not be separated from his performance of duty. Indeed, under *Alarilla v. Sandiganbayan* and its progenitor rulings, an act that is the consequence of the discharge of the employee’s official functions or the performance of his duties, or that is relevant to his office or to the discharge of his official functions is justly considered as service-related.

The fact that the acts of Ganzon were committed within the premises of the DILG Regional Office No. 6 strengthens our view that such acts could not but be connected to Ganzon’s public employment. Verily, the Court has regarded the commission of offensive overt acts by public officials and employees within the premises of their public offices to be deserving of administrative reprobation.

For instance, in *Quiroz v. Orfila*,²² the court employees’ conduct of shouting at each other and quarreling within the court premises and during working hours were considered as exhibiting discourtesy and disrespect to their co-workers and to the court itself. Their behavior was held to be contrary to the ethical standard demanded by Republic Act No. 6713 (*Code of Conduct and Ethical Standards for Public Officials and Employees*).

Another illustrative instance is *Baloloy v. Flores*,²³ where the respondent Sherwin M. Baloloy was charged with misconduct because:

x x x complainant alleged that as he was going back to his office after delivering court documents, he noticed respondent sitting on a bench, staring menacingly at him. Without any warning, respondent stood up and boxed him several times in the face. To avoid further harm, complainant ran towards room 315 and once he was inside, the secretary therein locked the door. Respondent pursued him and started kicking and banging at the door, all the while shouting invectives at him. Respondent left after apparently sensing the alarm he was causing.

²¹ Supra note 19, at 495-498.

²² A.M. No. P-96-1210, May 7, 1997, 272 SCRA 324, 331.

²³ A.M. No. P-99-1357, September 4, 2001, 364 SCRA 317-318.

A few minutes after respondents left, complainant left room 315 accompanied by a friend named Demet. They went to respondent's office to report the incident to respondent's superior. When they got there, however, they saw respondent holding a screwdriver, provoking them to fight. The branch clerk of court intervened and requested Demet to take complainant to the hospital. x x x.

Finding both the complainant as legal researcher and the respondent as process server guilty of misconduct, the Court ruled that:

We have time and again emphasized that the conduct and behavior of everyone connected with an office charged with the administration of justice must at all times be characterized by propriety and decorum. This Court will not tolerate misconduct committed by court personnel, particularly during office hours and within court premises. Such misconduct shows a total lack of respect for the court, and erodes the good image of the judiciary in the eyes of the public.

Both complainant and respondent have fallen short of the standard of conduct required of court employees. **Fighting with each other during working hours shows disrespect not only of coworkers but also of the court.**²⁴ (Emphasis supplied)

Although court employees were involved in the foregoing situations, while the conduct of an employee of the DILG is the focus herein, the same considerations taken into account in the former are applicable herein.

Even if the affair occurred outside of the regular work hours, Ganzon's menacing attitude towards Arlos still had no excuse, particularly as Arlos was his superior in the office hierarchy. Section 4(c) of RA 6713 (*Code of Conduct Standards for Public Officials and Employees*) fittingly provides:

(c) Justness and sincerity. – Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. **They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest.** (Emphasis supplied)

It is almost superfluous to remind all public employees like Ganzon that the law of good manners and proper decorum was law during as well as outside office hours.

²⁴ Id. at 321.

Another ground for Ganzon's appeal was that the administrative case should not have been resolved independently of the criminal case; and that his eventual acquittal in the criminal case precluded his administrative liability.

Again, the Court disagrees.

We uphold the CA's following rumination on the matter, *viz*:

x x x. The mere fact that he was acquitted in the criminal case (said criminal case was based on the same facts or incidents which gave rise to the instant administrative case) does not *ipso facto* absolve him from administrative liability. Time and again, the Supreme Court has laid down the doctrine that an administrative case is not dependent on the conviction or acquittal of the criminal case because the evidence required in the proceedings therein is only substantial and not proof beyond reasonable doubt.²⁵

An administrative case is, as a rule, independent from criminal proceedings. The dismissal of a criminal case on the ground of insufficiency of evidence or the acquittal of an accused who is also a respondent in an administrative case does not necessarily preclude the administrative proceeding nor carry with it relief from administrative liability. This is because the quantum of proof required in administrative proceedings is substantial evidence, unlike in criminal cases which require proof beyond reasonable doubt. Substantial evidence, according to Section 5 of Rule 133, *Rules of Court*, is "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion." In contrast, proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty; moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.²⁶

Finally, Ganzon's insistence that the penalty of dismissal from the service imposed on him was unjustified and excessive is unwarranted.

After being duly found guilty of grave misconduct, Ganzon was rightly meted the penalty of dismissal from the service for his first offense conformably with the *Revised Uniform Rules on Administrative Cases in the Civil Service*,²⁷ to wit:

²⁵ *Rollo*, pp. 115-116.

²⁶ Section 2, Rule 133, *Rules of Court*.

²⁷ Civil Service Commission Memorandum Circular 19, Series of 1999, August 31, 1999.

RULE IV

Penalties

Section 52. Classification of Offenses. – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:

1. Dishonesty;

x x x x

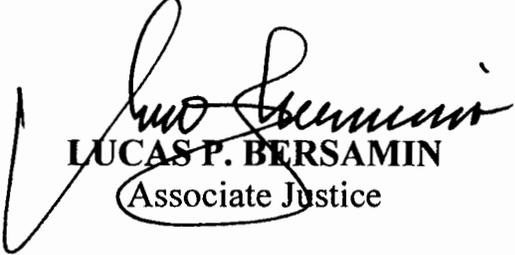
3. **Grave Misconduct;**
1st offense – **Dismissal** (Emphasis supplied)

In this regard, Section 56 and Section 58 of the *Revised Uniform Rules on Administrative Cases in the Civil Service* respectively state that the penalty of dismissal shall result in the permanent separation of the respondent from the service, with or without prejudice to criminal or civil liability, and shall carry with it cancellation of eligibility, forfeiture of retirement benefits and the perpetual disqualification from re-employment in the government service, unless otherwise provided in the decision.

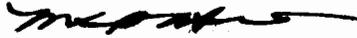
The Court deems it worthwhile to emphasize as a final word that the imposition of the correct disciplinary measures upon erring public officials and employees has the primary objective of the improvement of the public service and the preservation of the public's faith and confidence in the Government. The punishment of the erring public officials and employees is secondary, but is nonetheless in accord with the Constitution, which stresses in Section 1 of its Article XI that a public office is a public trust, and commands that public officers must at all times be accountable to the people, whom they must serve with utmost responsibility, integrity, loyalty, and efficiency.

WHEREFORE, the Court **AFFIRMS** the decision promulgated by the Court of Appeals and **ORDERS** petitioner Rolando Ganzon to pay the costs of suit.

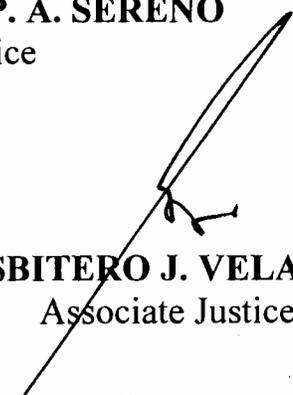
SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

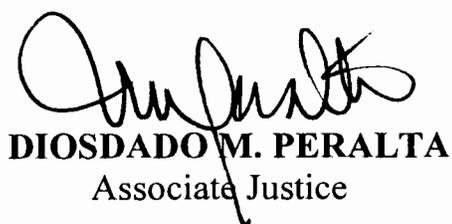

MARIA LOURDES P. A. SERENO
 Chief Justice


ANTONIO T. CARPIO
 Associate Justice


PRESBITERO J. VELASCO, JR.
 Associate Justice


TERESITA J. LEONARDO-DE CASTRO
 Associate Justice

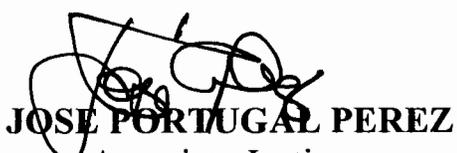

ARTURO D. BRION
 Associate Justice


DIOSDADO M. PERALTA
 Associate Justice

(On Leave)
MARIANO C. DEL CASTILLO
 Associate Justice

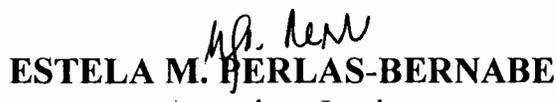

ROBERTO A. ABAD
 Associate Justice


MARTIN S. VILLARAMA, JR.
 Associate Justice


JOSE PORTUGAL PEREZ
 Associate Justice


JOSE CABRAL MENDOZA
 Associate Justice

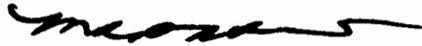

BIENVENIDO L. REYES
 Associate Justice


ESTELA M. PERLAS-BERNABE
 Associate Justice


MARVIC MARIO VICTOR F. LEONEN
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARIA LOURDES P. A. SERENO
Chief Justice