

## FIRST DIVISION

[G.R. No. 236050. June 17, 2020.]

**ESTRELLA M. DOMINGO**, *petitioner*, vs. **CIVIL SERVICE COMMISSION** and **VICTORINO MAPA MANALO**, *respondents*.

## DECISION

**LAZARO-JAVIER, J.:**

This Petition for Review assails the Decision [1] dated June 1, 2017 and Resolution [2] dated November 23, 2017 of the Court of Appeals in CA-G.R. SP No. 141408 finding petitioner Estrella M. Domingo (petitioner) guilty of grave misconduct, serious dishonesty, and conduct prejudicial to the best interest of the service.

### Antecedents

Petitioner is the Chief Archivist of the Archives Preservation Division of the National Archives of the Philippines (NAP). [3] On February 24, 2014, Mayor Strike B. Revilla of Bacoor City, Cavite, requested the NAP to provide resource speakers for a three (3)-day Basic Records Management Seminar Workshop and a two (2)-day Training on Paper Preservation from March 24-28, 2014 at the Productivity Center, Bacoor City, Cavite. [4]

In reply, respondent Executive Director Victorino Mapa Manalo (respondent Manalo) initially confirmed to Josephine F. Austria (Austria), then Chief of the NAP's Training and Information Division, the availability of four resource persons, including petitioner, to the City Mayor, but only for the Basic Records Management Seminar Workshop. [5] Austria prepared the draft conforme letter, draft Travel Order (the Office Order allowing the attendance of the four resource persons), schedule of events, and the Document Endorsement Form. Austria forwarded these documents to respondent Manalo.

In the Document Endorsement Form, however, respondent Manalo wrote his instruction putting on hold all in-house trainings until after April 1, 2014. [6] He then returned the documents to Austria to revise the schedule of the attendance of the resource persons.

Austria did not endorse back the conforme letter, Travel Order, schedule of events, and the Document Endorsement Form to respondent Manalo, with the latter's

revision. These documents hibernated in Austria's custody. As a result, Bacoor City's request was left in limbo.

Meantime, on April 10, 2014, petitioner applied for a leave of absence for the dates April 28-29, 2014. She thereafter personally received on April 26, 2014 a letter dated April 22, 2014 from Mayor Revilla inviting her to serve as resource speaker for the City of Bacoor's Basic Records Management Seminar on April 28-29, 2014 at Tagaytay City. Her leave of absence coincided with the seminar. The April 22, 2014 request was expressly stated to be in lieu of the request earlier sent to the NAP. [7]

On April 23, 2014, the City of Bacoor sent an email to the NAP requesting for its official seal to be used at the April 28-29, 2014 seminar.

Petitioner, together with Austria and Lara Marie R. Abejuela, attended the April 28-29, 2014 seminar at Tagaytay City. Petitioner acted as resource speaker for Basic Records Management. The NAP's handouts were presented and disseminated during this seminar. [8]

On May 19, 2014, respondent Manalo issued a show cause memorandum relative to the conduct of the unapproved seminar and unauthorized use and dissemination of the NAP handouts. [9]

Meantime, on June 26, 2014, the City of Bacoor thanked the NAP for the participation of petitioner and Austria as resource persons at the April 28-29, 2014 seminar.

In her answer, petitioner apologized and admitted to acting as resource person without office approval. She however denied knowing for sure of the request's history. She averred that her information about the prior request only came from Austria who had informed her that a request in which she was one of the proposed speakers was still pending approval by respondent Manalo. She claimed that she had to grace the seminar as a resource speaker as she was a resident of Bacoor City and since Bacoor City had already prepared the seminar's venue while awaiting the NAP's approval. [10] She also maintained that she had attended the seminar in her private capacity as she was on leave then. [11]

On August 20, 2014, petitioner and Austria were formally charged with serious dishonesty, grave misconduct, and conduct prejudicial to the interest of public service while Abejuela was charged with simple misconduct. [12] A formal investigation ensued. [13]

Meanwhile, Austria availed of early retirement effective July 1, 2014 while Abejuela resigned on July 25, 2014. [14]

### **The National Archives of the Philippines' (NAP) Ruling**

By Decision [15] dated November 14, 2014, the NAP found petitioner guilty as charged and dismissed her from the service with the accessory penalties of cancellation

of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations.

According to the NAP, petitioner's act of attending the seminar as a resource speaker without prior office approval and use of official training materials were clear derogation of office rules, which constituted grave misconduct.

The NAP did not mention the specific rule that petitioner had violated for attending the seminar without prior office approval and not objecting to the dissemination of the NAP's materials during the seminar. It may be inferred though that the NAP was referring to Executive Order No. 77, series of 2019, Prescribing Rules and Regulations and Rates of Expenses and Allowances for Official Local and Foreign Travels of Government Personnel, and its implementing NAP office procedures, as well as Section 176.1 [16] of the Intellectual Property Code.

The NAP ruled that petitioner's liability was aggravated by the fact that she had been charged with the same act when she conducted a seminar before the Dangerous Drugs Board on December 17, 2013. The NAP did not state or confirm the status of this charge though the NAP claimed that petitioner had apologized for this infraction and promised not to do it again.

The NAP found that petitioner did not inform the former of the scheduled seminar, instructed Abejuela not to inform the office about the seminar, filed her leave of absence days back for April 28-29, 2014, and appeared as resource speaker at the seminar.

According to the NAP, these acts constituted serious dishonesty because petitioner made it appear that she had the authority to represent the NAP. Petitioner's actions also constituted conduct prejudicial to the best interest of the service.

Meanwhile, the charges against Austria and Abejuela were mooted by their retirement and resignation, respectively, before they were formally charged. [17]

Petitioner's motion for reconsideration was denied per Order [18] dated December 5, 2014. Aggrieved, petitioner appealed her dismissal to the Civil Service Commission (CSC).

### **The Civil Service Commission's Ruling**

By Decision [19] dated April 23, 2015, the CSC affirmed. Petitioner's motion for reconsideration was denied under Resolution [20] dated June 30, 2015.

### **The Proceedings before the Court of Appeals**

Undaunted, petitioner elevated the case to the Court of Appeals *via* Rule 43 of the Rules of Court.

Petitioner reiterated her denial of personal knowledge about the request's history and the correspondence between the NAP and Mayor Revilla. She maintained that it was Austria who was in direct communication with respondent Manalo regarding the

request. She pointed out NAP's customary practice of allowing petitioner to conduct seminars without office approval due to exigency of the service. More, she was without malice nor evil intent when she filed her leave on April 28 and 29, 2014 and proceeded without authorization. There was nothing to prove that she willfully, intentionally, flagrantly, and maliciously conducted the seminar without prior office approval to qualify the infraction as grave misconduct. There was also no concealment of truth as to constitute serious dishonesty. All in all, her allegedly innocent acts could not have amounted to conduct prejudicial to the best interest of the service. [21]

On the other hand, the CSC, through the Office of the Solicitor General (OSG), countered that petitioner's guilt was supported by substantial evidence. The CSC pointed out petitioner's admission in her letter reply to respondent Manalo's show cause memorandum where she admitted she acted as a resource person without prior office approval. Petitioner's act manifested flagrant disregard of NAP's established rules and willful defiance of directives which amounted to grave misconduct. Further, petitioner committed serious dishonesty when she made it appear that she had the authority to represent the NAP at the seminar, when she instructed Abejuela not to inform the NAP about the April 28-29, 2014 seminar, and filed their respective leaves of absence on these dates. Lastly, as Chief Archivist, petitioner was expected to exhibit honesty, exemplary professional conduct and ethics. These, she miserably failed to live up to and tantamount to conduct prejudicial to the best interest of the service. [22]

### **The Court of Appeals' Ruling**

Under Decision [23] dated June 1, 2017, the Court of Appeals affirmed. Petitioner moved for reconsideration but the same was denied per Resolution [24] dated November 23, 2017.

### **The Present Petition**

Petitioner now seeks relief from the Court. She avers she honestly believed in good faith that there was no need to obtain prior approval as Mayor Revilla invited her in her personal capacity to be a resource speaker for the seminar. In addition, as the NAP failed to act on Mayor Revilla's letter request dated February 24, 2014, she took it upon herself to attend the seminar as a resource speaker to salvage both the reputation of the NAP and Bacoor City's expenses of putting up the event. Lastly, she claims that the penalty of dismissal is too harsh for the acts she had done considering her unblemished thirty-six (36)-year record in government service. [25]

In their comment, [26] public respondents CSC, and the NAP represented by respondent Manalo, through the OSG defend the Court of Appeals' dispositions affirming petitioner's dismissal from the service. They reiterate their arguments before the Court of Appeals.

For purposes of resolving this petition for review on *certiorari*, we have to be mindful of the facts established below. This is because under Section 1, Rule 45, petitions of this kind shall raise only questions of law. The factual findings are binding

upon us and only questions of law, and only from the Court of Appeals' disposition, [27] may be litigated once again. [28] While jurisprudence has laid down exceptions to this rule, any of these exceptions must be alleged, substantiated, and proved by the parties so the Court may in its discretion evaluate and review the facts of the case. [29]

Petitioner does not invoke any of these exceptions.

The NAP, the CSC, and the Court of Appeals hinged petitioner's infractions and the penalty of dismissal from the service upon these facts:

- (1) petitioner is the NAP's Chief Archivist of the Archives Preservation Division of the NAP;
- (2) the NAP received on February 24, 2014 a letter from Mayor Strike B. Revilla of Bacoor City, Cavite, requesting the NAP to provide resource speakers for a three (3)-day Basic Records Management Seminar Workshop and a two (2)-day Training on Paper Preservation from March 24-28, 2014 at the Productivity Center, Bacoor City, Cavite;
- (3) respondent Manalo initially approved the participation of four resource persons, including petitioner, but later instructed the NAP to put on hold all in-house trainings until April 1, 2014;
- (4) respondent Manalo returned the necessary documents to Austria to reflect the revised schedule;
- (5) Austria did not endorse back the documents to respondent Manalo with the latter's revision; the documents instead hibernated in Austria's Custody;
- (6) petitioner applied for leave on April 10, 2014 for the dates April 28-29, 2014;
- (7) petitioner personally received on April 26, 2014 a letter dated April 22, 2014 from Mayor Revilla inviting her to serve as resource speaker for the City of Bacoor's Basic Records Management Seminar on April 28-29, 2014 at Tagaytay City, and stating that this invitation was in lieu of the earlier request sent to the NAP;
- (8) on April 23, 2014, the City of Bacoor sent an email to the NAP requesting for its official seal to be used at the April 28-29, 2014 seminar;
- (9) petitioner was informed by Abejuela of a pending request by the Bacoor City for the conduct of the same seminar in which she was one of the speakers, but still awaiting the NAP's approval;
- (10) petitioner instructed Abejuela not to inform the NAP about the April 28-29, 2014 seminar;
- (11) petitioner and Abejuela attended the April 28-29, 2014 seminar, in which NAP's handouts were presented and disseminated;

- (12) on June 26, 2014, the City of Bacoor thanked the NAP for the participation of petitioner and Austria as resource persons at the April 28-29, 2014 seminar;
- (13) petitioner admitted in her letter-reply to respondent Manalo's show cause memorandum that she had acted as a resource person without office approval at the April 28-29, 2014 seminar, and apologized for her acts; and
- (14) petitioner was previously charged with the same act when she allegedly conducted a seminar before the Dangerous Drugs Board on December 17, 2013.

### **Issue**

Is petitioner liable for grave misconduct, serious dishonesty, and conduct prejudicial to the best interest of the service on the basis of the facts enumerated above?

### **Ruling**

The issue presented before the Court is a question of law — what are the legal consequences in an administrative disciplinary proceedings of the facts above-mentioned? There is a question of law when the doubt or difference arises as to what the law is on a certain set of facts; a question of fact, on the other hand, exists when the doubt or difference arises as to the truth or falsehood of the alleged facts. [30] The answer to this issue is a conclusion of law, that is, a legal inference made as a result of a factual showing where no further evidence is required. [31]

We rule that petitioner is not liable for either grave or simple misconduct, serious dishonesty, and conduct prejudicial to the best interest of the service.

Misconduct is a transgression of some established and definite rule of action, particularly, as a result of a public officer's unlawful behavior, recklessness, or gross negligence. This type of misconduct is characterized for purposes of gravity and penalty as simple misconduct. [32]

The misconduct is *grave* if it involves any of the additional elements of corruption, clear willful intent to violate the law, or flagrant disregard of established rules, supported by substantial evidence. [33]

To illustrate, in *Office of the Ombudsman v. Miedes, Sr.*, [34] therein respondents as members of the Bids and Awards Committee (BAC) purchased 19 cellphones without public bidding and from a mere authorized distributor and not the manufacturer or the latter's exclusive distributor in violation of Presidential Decree No. 1445. As BAC members, they were each presumed to know all existing policies, guidelines and procedures in carrying out the purchase of the cellphones. The Court held petitioner liable only for simple misconduct because while they knew that the approval may violate administrative rules, it cannot be concluded without more as proved by substantial evidence, that they did so with either a corrupt intention or a clear

willful intention amounting to an open defiance or a flagrant disregard of the rules. Thus:

Misconduct is "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by 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 established rules, must be manifest and established by substantial evidence. Grave Misconduct necessarily includes the lesser offense of Simple Misconduct. Thus, a person charged with Grave Misconduct may be held liable for Simple Misconduct if the misconduct does not involve any of the elements to qualify the misconduct as grave.

The CA correctly found no reason to depart from the findings of the petitioner that respondent and his companions are guilty of Simple Misconduct. The elements particular to Grave Misconduct were not adequately proven in the present case. **Corruption, as an element of Grave Misconduct, consists in the act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person**, contrary to duty and the rights of others. There is no clear and convincing evidence in the present case to show that the purchase and acquisition of the 19 cellular phone units had been **made for personal or selfish ends. Nor is there evidence** that respondent and his companions **acted in a capricious, whimsical and arbitrary manner with conscious and deliberate intent to do an injustice to others.**

Nonetheless, as aptly found by the CA, respondent and his companions **should have exercised all the necessary prudence to ensure that the proper procedure was complied with in the purchase of the 19 cellular phone units** because the Municipal Government of Carmen, Davao del Norte was deprived of means of securing the most advantageous price by the purchase of the 19 cellular phone units through an authorized distributor and not directly through a manufacturer or an exclusive distributor. Thus, respondent is liable for Simple Misconduct.

In *Civil Service Commission v. Ledesma*, [35] we ruled that respondent is guilty only of Simple Misconduct for accepting P3,000.00 in exchange for facilitating the release of complainants' emigrant certificate clearances and their respective passports. The Court held:

The standard was not met in this case. Taken as a whole, the circumstances surrounding this case and the execution of the complaint-affidavits against Ledesma would raise doubts in a reasonable mind.

The primary complainant, Steve Tsai, is a foreigner who was a mere student at the time. Yet he blithely broke into a government office on a day that he probably knew, from his stay in the country, to be a non-working day. At the least, this brazen and appalling conduct shows that Steve Tsai is hardly

trustworthy. His version of events should not be accepted wholesale. We have previously held that the standard of substantial evidence is not met by affidavits of questionable veracity.

Given the questionable nature of the complainants' affidavits, **we are left with Ledesma's admission that she received P3,000 from complainants.** There is no dispute that **P2,560 was the required fee for two ECCs in 1999.** **This amount was actually paid to the Bureau, and Steve Tsai and Ching Tsai received their ECCs. Only P460 is unaccounted.** **Ledesma's admission, however, does not prove by itself corruption or the other elements particular to grave misconduct.** **Ledesma admitted to receiving the money only so she could pass it to someone else and not for her own benefit.** In the absence of substantial evidence to the contrary, Ledesma's explanation is plausible. Moreover, **to warrant dismissal, the misconduct must be grave, serious, important, weighty, momentous and not trifling.** That is not the case here.

We stress that the law does not tolerate misconduct by a civil servant. Public service is a public trust, and whoever breaks that trust is subject to sanction. **Dismissal and forfeiture of benefits, however, are not penalties imposed for all infractions, particularly when it is a first offense.** There must be substantial evidence that grave misconduct or some other grave offense meriting dismissal under the law was committed.

Further, this is Ledesma's first offense in more than three decades of otherwise untarnished public service. Under the circumstances, we agree with the Court of Appeals that suspension for six months is an adequate penalty.

Here, it is undisputed that petitioner acted as resource speaker at the seminar organized by the City of Bacoor for its Basic Records Management without office approval where the NAP materials were disseminated for the purpose of conducting the seminar in general. [36] It may also be reasonably inferred from the established facts that petitioner coincided her leave of absence on April 28-29, 2014 so she could take part as a resource speaker at the seminar, and along with Abejuela and Austria, kept respondent Manalo in the dark about their attendance at this seminar.

Petitioner's actions, however, do not violate or transgress any rule of conduct. As observed, the NAP, including the CSC and the Court of Appeals, did not mention the exact law or office rule that petitioner has violated. We have inferred that the rule of conduct adverted to in the administrative proceedings are, as stated, Executive Order No. (EO) 77, series of 2019, Prescribing Rules and Regulations and Rates of Expenses and Allowances for Official Local and Foreign Travels of Government Personnel, and its implementing NAP office procedures, as well as Section 176.1 [37] of the Intellectual Property Code.

To be sure, EO 77, series of 2019, requires office approval only for local travels that are official in nature, which refer to travels outside of official station on official



time. The NAP implementing procedures simply aid in the enforcement of EO 77, and therefore, cannot require more than what EO 77 demands.

Here, petitioner opted not to avail of an official local travel. She decided instead to take a leave of absence during the dates of the seminar. There is no allegation and proof that the NAP denied her leave of absence. Hence, when she attended the seminar at Tagaytay City, she was not on official time, had no right to claim for official expenses, and cannot add the seminar to her credentials as an official work accomplishment. Any risks, legal or physical, she could have faced were for her own look-out. Nonetheless, she was not barred from attending this activity on her own personal volition and account as she was on leave of absence.

We take judicial notice of the fact that local travels when done on personal account do not require travel authority, unlike in the case of foreign travels whether personal or official. Local travels in a government employee's personal capacity, as they involve absence from work and work station, only entail the filing and approval of leave of absence. In the absence of any circumstance reflecting adversely upon the government, whether in direct relation to and in connection with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office, or though unrelated to the employee's official functions but tarnishes the image and integrity of the employee's public office, a local travel is not actionable solely because there was no office order approving it.

We also cannot conclude that petitioner acted insubordinately to respondent Manalo. It has not been established that petitioner knew of the status of the first request made by the City of Bacoor. What has only been confirmed is that she was told by Austria of the existence of the first request but not as to any update about respondent Manalo's action or inaction upon it.

While it is clear to any reasonable person that petitioner took advantage of the April 22, 2014 request for resource persons by the City of Bacoor, as this was directly communicated to her on April 26, 2014, we cannot reasonably infer from this fact that she too had known of the status of the City of Bacoor's first request. Petitioner's taking advantage of the opportunity does not prove that she was acting defiantly against her superior — these are two different things. For sure, she could not have acted in defiance of an instruction she knew nothing about.

Petitioner was probably motivated to keep respondent Manalo in the dark about the April 22, 2014 request, because there was no more time between when she had received the request on April 26, 2014 and the seminar's schedule on April 28-29, 2014, to obtain office approval and make her attendance thereat an official local travel. To a reasonable person, she graced the seminar using her leave of absence because in all probability she could not have obtained the travel order to make her participation an official activity.

There is as well no law that obligated petitioner to inform the NAP or respondent Manalo about her activities or whereabouts during her leave of absence. Her attendance as a resource speaker at the City of Bacoor seminar, without more, during her leave of absence, did not create a rule of conduct requiring her to obtain office approval to do so. In fact, neither the NAP, the CSC nor the Court of Appeals referred to any law — whether statute, administrative rule, or case law — demanding such office approval.

Further, it was not found as a fact that petitioner actually misrepresented herself at the seminar to be acting on behalf of the NAP. That she was misrepresenting herself as such was only an inference, not a factual finding, by the NAP.

The finding of fact is that the City of Bacoor asked the NAP for a copy of the NAP's official seal as part of the credential-building for the seminar. There is no finding of fact as to what happened to this request. It is not known if the NAP rejected the City of Bacoor's request. If it did, then no misrepresentation could have taken place, whether at petitioner's behest or anyone else's. If it acceded to the request, then the NAP officially acknowledged its participation in the seminar. In this instance, there could have been no misrepresentation by any of the NAP employees thereat including petitioner.

Equally true, petitioner did not violate any rule of conduct when the NAP's materials were disseminated during the seminar. For one, it was not confirmed who directed the dissemination of the NAP materials at the seminar. There is no finding of fact that petitioner was the operating and controlling mind of the dissemination. For another, under Section 176.1 of the *Intellectual Property Code*, the government holds no copyright to its materials:

**No copyright** shall subsist in **any work of the Government** of the Philippines. However, **prior approval of the government** agency or office wherein the work is created shall be **necessary** for **exploitation** of such work **for profit**. Such agency or office may, among other things, impose as a condition the payment of royalties. **No prior approval or conditions shall be required for the use for any purpose of** statutes, rules and regulations, and speeches, **lectures**, sermons, addresses, and dissertations, pronounced, read or rendered in courts of justice, before administrative agencies, in deliberative assemblies and **in meetings of public character**. (Emphasis supplied)

Under the law, the NAP materials were free to be disseminated to the City of Bacoor stakeholders. Presenting the NAP materials to the City of Bacoor is not an exploitation of the NAP materials for profit, but for the noble and laudable cause of improving the basic records management of this local government unit.

Notably, there is no finding of fact that petitioner personally materially benefitted from her attendance at the seminar. Except for the fact that she could have created goodwill for her own self, as she admitted to being a resident of the City of Bacoor, there is nothing on record that she obtained a monetary profit from it. In any event, it is an established fact that the goodwill created by petitioner extended to the

NAP as an institution as shown by the City of Bacoor's letter dated June 26, 2014 thanking the NAP for its support to the City of Bacoor's efforts at professionalizing its basic records management.

As there could have been no misrepresentation by petitioner at the seminar as to her representative capacity, no evidence having been presented to this effect but only an inference thereof, which inference is actually negated by the City of Bacoor's letter-request to the NAP for the use of its seal at the seminar, there is no basis for the conclusion that petitioner committed serious dishonesty.

Dishonesty is the disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of honesty, probity, or integrity in principle; lack of fairness and straightforwardness and disposition betray. [38] It is the concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his or her duty. It is a serious offense, which reflects on the person's character and exposes the moral decay which virtually destroys his or her honor, virtue and integrity. Its immense debilitating effect on the government service cannot be overemphasized. [39]

In ascertaining the intention of a person accused of dishonesty, consideration must be taken not only of the facts and circumstances which gave rise to the act committed, but also on the state of mind at the time the offense was committed, the time he might have had at his or her disposal for the purpose of meditating on the consequences of his or her act, and the degree of reasoning he or she could have had at that moment. [40]

To illustrate, acts or omissions considered as dishonesty include: making untruthful statements in the Personal Data Sheet, causing another person to take and pass the Career Service Professional Examination on his or her behalf, [41] use of fake or spurious civil service eligibility, [42] and use of position to make his or her "clients" believe that he or she could give them undue advantage — over others without the same connection — by processing their claims faster. [43] Intent to deceive and defraud then, is evidently present in the enumerated cases.

Here, intent to deceive or defraud are not manifest in the act complained of. There was no showing that petitioner personally benefitted from her attendance as a resource speaker. In fact, she rendered service to another government unit which had already made arrangements and incurred costs for the seminar. More, in petitioner's letter-reply to respondent Manalo's show cause memorandum, she readily apologized and admitted conducting the seminar without prior office approval.

In *Faeldonea v. Civil Service Commission*, [44] postmaster Faeldonea received an envelope containing the check for Efren's death benefits. He took it to answer for Efren's obligations with the Philippine Postal Corporation (PPC) and deposited it to PPC's account with Landbank. The CSC found Faeldonea liable for grave misconduct and dishonesty. For lack of ill or selfish motives, the Court exonerated Faeldonea from

the charge of dishonesty. No proof was presented to show any concealment of the truth on Faeldonea's part.

To conclude, in the absence of evidence proving misrepresentation or any of the other elements above-stated, we cannot hold petitioner liable for serious dishonesty.

Petitioner's participation at the seminar cannot also constitute conduct prejudicial to the best interest of the service. In *Office of the Ombudsman-Visayas v. Castro*, [45] the nature of this administrative offense was explained as follows:

The respondent's actions, to my mind, constitute conduct prejudicial to the best interest of the service, **an administrative offense which need not be related to the respondent's official functions**. In *Pia v. Gervacio*, we explained that **acts may constitute conduct prejudicial to the best interest of the service as long as they tarnish the image and integrity of his/her public office**.

The following acts or omissions have been treated as conduct prejudicial to the best interest of the service: misappropriation of public funds; abandonment of office; failure to report back to work without prior notice; failure to safe-keep public records and property; making false entries in public documents; falsification of court orders; a judge's act of brandishing a gun; and threatening the complainants during a traffic altercation. [46]

Here, we cannot deduce from the records and circumstances how petitioner's act amounted to conduct prejudicial to the best interest of the service. Petitioner's assailed act did not tarnish the image of her public office, the NAP. Definitely, when petitioner served as resource speaker at the seminar, she shared her expertise before another government unit, the City of Bacoor. The records also do not show that petitioner's failure to inform and secure prior office approval to act as a resource speaker, needlessly as explained above, tarnished the image and integrity of his or her public office that would have eroded the public's trust and confidence in the government. This is evident from the fact that the City of Bacoor sent the NAP a letter after the seminar thanking it and its employees, petitioner and Austria, for their invaluable contribution to the professionalization of its basic records management.

Hence, it cannot be said that petitioner is guilty of conduct prejudicial to the best interest of the service.

Let us be clear about petitioner's acts. She participated at a seminar for the benefit of the local government unit and people of the City of Bacoor. There is no evidence that she disseminated the NAP's materials (to which the NAP did not have proprietary rights to, in any event) at the seminar. She did not materially profit from her attendance thereat. She did not defraud the government of anything — she was in fact on leave of absence when she was there. As there was no perpetration of fraud, there could have been no intent to defraud on her part.

*A final word.* In terms of operational efficiency, there are lots to say about petitioner's conduct. A government office should be in control of the conduct of seminars in its areas of expertise for other government offices in need of such seminars. This is to allow the use of the office's resources judiciously.

But in the absence of a black-letter law prohibiting the attendance of employees at seminars, even during their leaves of absence, which are otherwise more efficiently conducted at the expert government office's behest, we cannot punish administratively an employee who does so.

In lieu of such black-letter prohibition, a government office and its administrators can deny leaves of absence for purposes of attendance as resource speakers at seminars. They may also coordinate with other government offices to ensure that no such attendance and participation are tolerated.

For purposes however of resolving this petition for review, we cannot acquiesce with the dispositions of the tribunals below. There are no legal bases to affirm their decisions.

**ACCORDINGLY**, the Court of Appeals' Decision dated June 1, 2017 and Resolution dated November 23, 2017 in CA-G.R. SP No. 141408 is **REVERSED and SET ASIDE**. Petitioner Estrella M. Domingo is **ABSOLVED** of grave misconduct, serious dishonesty, conduct prejudicial to the best interest of the service, and any administrative offenses included therein. The complaint against her is **ORDERED DISMISSED**.

**SO ORDERED.**

*Peralta, C.J., Caguioa, J.C. Reyes, Jr. and Lopez, JJ., concur.*

## **Footnotes**

1. Penned by Associate Justice Jhosep Y. Lopez and concurred in by Associate Justices Normandie B. Pizarro and Pedro B. Corales, all members of the Special Twelfth Division, *rollo*, pp. 32-43.
2. *Id.* at 44-45.
3. *Id.* at 32-34.
4. *Id.* at 65.
5. *Id.* at 32-34.
6. *Id.* at 68.
7. *Id.* at 71.

8. *Id.* at 34.
9. *Id.* at 73.
10. *Id.* at 75.
11. *Id.* at 91.
12. *Id.* at 76-79.
13. *Id.* at 35.
14. *Id.* at 96.
15. *Id.* at 80-99.
16. SECTION 176. Works of the Government. — 176.1. No copyright shall subsist in any work of the Government of the Philippines. **However, prior approval of the government agency or office wherein the work is created shall be necessary for exploitation of such work for profit.** Such agency or office may, among other things, impose as a condition the payment of royalties. **No prior approval or conditions shall be required for the use for any purpose of** statutes, rules and regulations, and speeches, **lectures**, sermons, addresses, and dissertations, pronounced, read or rendered in courts of justice, before administrative agencies, in deliberative assemblies and **in meetings of public character.**
17. *Office of the Ombudsman v. Andutan, Jr.*, 670 Phil. 169 (2011).
18. *Rollo*, pp. 100-106.
19. *Id.* at 46-57.
20. *Id.* at 58-64.
21. *Id.* at 107-126.
22. *Id.* at 129-152.
23. *Id.* at 32-43.
24. *Id.* at 44-45.
25. *Id.* at 9-31.
26. *Id.* at 156-182.

27. Gatan v. Vinarao, G.R. No. 205912, October 18, 2017.
28. Pascual v. Burgos, 776 Phil. 167, 169 (2016).
29. *Id.*
30. *Supra* note 27.
31. Mercene v. Government Service Insurance System, G.R. No. 192971, January 10, 2018, 850 SCRA 209, 217.
32. Imperial, Jr. v. Government Service Insurance System, 674 Phil. 286, 298 (2011); Civil Service Commission v. Ledesma, 508 Phil. 569 (2005).
33. Civil Service Commission v. Ledesma, *id.*
34. 570 Phil. 464, 472-473 (2008).
35. *Supra* note 32.
36. *Rollo*, p. 11.
37. SECTION 176. Works of the Government. — 176.1. No copyright shall subsist in any work of the Government of the Philippines. **However, prior approval of the government agency or office wherein the work is created shall be necessary for exploitation of such work for profit.** Such agency or office may, among other things, impose as a condition the payment of royalties. **No prior approval or conditions shall be required for the use for any purpose of** statutes, rules and regulations, and speeches, **lectures**, sermons, addresses, and dissertations, pronounced, read or rendered in courts of justice, before administrative agencies, in deliberative assemblies and **in meetings of public character.** (Emphasis supplied)
38. Aguirre v. Nieto, G.R. No. 220224, August 28, 2019.
39. Civil Service Commission v. Cayobit, 457 Phil. 452, 460 (2003).
40. Wooden v. Civil Service Commission, 508 Phil. 500, 512 (2005).
41. Nasser v. Civil Service Commission, G.R. No. 235848 (Notice), March 5, 2018; Civil Service Commission v. Sta. Ana, A.M. No. P-03-1696 (Formerly OCA IPI No. 01-1088-P) (Resolution), 450 Phil. 59, 66 (2003).
42. *Supra* note 39.
43. Japson v. Civil Service Commission, 663 Phil. 665, 677 (2011).

44. 435 Phil. 410 (2002).

45. 759 Phil. 68, 79 (2015); Office of the Ombudsman v. Faller, 786 Phil. 467, 482 (2016).

46. Catipon v. Japson, 761 Phil. 205, 221-222 (2015).

(Domingo v. Civil Service Commission, G.R. No. 236050, (17 June 2020))