GLENDA RODRIGUEZ-ANGAT, Petitioner,	G.R. No. 204738
	Present:
- versus -	VELASCO, JR., *J., Chairperson,* PERALTA, VILLARAMA, JR., PEREZ,* and JARDELEZA, *JJ.*
GOVERNMENT SERVICE INSURANCE SYSTEM, Respondent.	Promulgated: July 29, 2015

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DECISION

VILLARAMA, JR., *J.*:

At bar is a petition[1] under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[2] of the Court of Appeals (CA) dated May 31, 2012 and its Resolution[3] dated December 4, 2012 in CA-G.R. SP No. 116748 which reversed and set aside the Resolutions[4] of the Civil Service Commission (CSC) and affirmed the Decision[5] of respondent Government Service Insurance System (GSIS) dated September 23, 2009 finding petitioner guilty of grave misconduct with the penalty of dismissal from the service with the attendant accessory penalties.

Petitioner Glenda Rodriguez-Angat was a former employee of the GSIS holding the position of Acting Senior Social Insurance Specialist detailed at the then Loans Department of the then Social Insurance Group. Petitioner was assigned a personal IP address with a Terminal ID to enable her to perform her functions and access GSIS databases.[6] Respondent GSIS

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1 *Rollo*, pp. 10-34.
2 Id. at 39-52. Penned by Associate Justice Angelita A. Gacutan with Associate Justices Magdangal M. De Leon and Francisco P. Acosta concurring.
3 Id. at 54-55.
4 Id. at 81-87, 89-92.
5 Id. at 68-79.
6 Id. at 40, 68.

is a government owned and controlled corporation duly organized and existing pursuant to Commonwealth Act No. 186, as amended.

Respondent charged petitioner with Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations consequent to the following antecedent facts:

> The case stemmed from the audit conducted by the Internal Audit Services Group (IASG) from 27 to 28 January, 2006 of salary loans with outstanding balances but tagged as fully paid in the central office. One of the cases uncovered was that of Ms. Sy, of the Manila Health Department, with CM No. 215839, who retired from government service on 26 April 2003. Apparently, the gross amount of her loan was [₱]135,608.00 but the posted payments were only [₱]56,301.00 at the time the same was tagged in the database as fully paid. Based on the Certification issued by the Information Technology Services Group (ITSG) dated 20 July 2006, signed by Managers Ethelda A. Antonio of the Systems Administration Department (SADMD) and Eduardo B. Naraval, Network and Telecom Department (NTD), **the Terminal ID used in the tagging of the salary loan of Ms. Sy as fully paid was A7C4 which belonged to respondent Angat.**[7]

In a Show Cause Memorandum[8] dated February 20, 2007, respondent required petitioner to explain her participation in the erroneous tagging of the loan of Sy. Petitioner replied *via* a verified memorandum dated February 28, 2007 with the GSIS Investigation Department where she denied any participation in the erroneous tagging of the salary loan and claimed that she was never assigned to the Loans Division which was responsible for the tagging of the loan accounts as "fully paid".[9] Petitioner further claimed that even if the tagging was done using her terminal, such fact alone does not necessarily prove that it was she herself who personally committed the erroneous tagging.

Respondent was not persuaded by petitioner's explanation and filed against the latter Administrative Case No. 07-010 on July 26, 2007 for Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations with the following material allegations, *viz.*:

> x x x x

> > *On November 17, 2003, Respondent used, or allowed others to use, her terminal with terminal ID **A7C4** to tag as fully paid the salary loan of Mercy M. Sy using the operator code **VPAO** which belonged to Ms. Vicenta P. Abelgas.*

> > *The full payment tagging was erroneous as the salary loan amount was Php135,608.00, whereas the posted payments as of the date of tagging only amounted to Php56,301.00.*

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7   Id. at 69. Emphasis supplied.
8   CA *rollo*, p. 72.
9   *Rollo*, p. 41.

> *The use of Respondent's computer terminal in such erroneous tagging is prohibited under SVP Order No. 02-99, which imposes upon computer terminal owners the duty to take extra care and measure in protecting their terminals from distortion, tampering or unauthorized use by anyone.*
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> **WHEREFORE**, Respondent is hereby directed to submit two (2) copies of her written answer under oath to the charge against her within five (5) working days from receipt hereof and to present whatever evidence she may so desire in support of her defense. x x x[10]

In an Answer[11] dated August 8, 2007, petitioner denied all the allegations hurled against her. She maintained that she did not use nor allowed others to use her computer terminal to tag as fully paid the salary loan of Sy. She further pointed out that "[a]s the Formal Charge admits, the tagging was made using the operator code **VPAO** belonging to **MS. VICENTA P. ABELGAS** and not to her."[12] Petitioner also claimed that the terminal with ID A7C4 which was used to tag as fully paid the salary loan of Sy did not belong to her. She showed an Official Memorandum dated November 25, 2003 to prove that her terminal ID was A7BN and not A7C4. She also posited that the erroneous tagging could have been due to a computer system error or to procedural lapses in the claims transactions of Sy.

The pre-hearing conference and formal investigation of the case ensued. After the proceedings, respondent issued its assailed Decision[13] dated September 23, 2009 finding petitioner guilty of Grave Misconduct and meting upon her the penalty of dismissal with the attendant accessory penalties. Respondent ruled, among others, that petitioner was unable to refute "the ITSG Certification showing that she is the owner of the computer terminal with ID 'A7C4'"[14] and which ownership carried with it the presumption of control over its usage. The assailed September 23, 2009 Decision held, *viz.*:

> The respondent's postulation, that the tagging is attributable to computer error or to procedural lapses of the claims processor cannot be given credence as it is bereft of any supporting evidence. It is axiomatic that a party has the burden of proof to establish his claim or defense. While the prosecution satisfactorily discharged its burden of proving that full payment tagging was done using the respondent's computer terminal as shown by the ITSG Certification, the respondent failed to prove that such transaction was due to technical glitches only and that it was not deliberately done by herself or any other individual.
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> The evidence presented by the respondent to prove her claim that terminal ID "A7C4" has not been assigned to her is inconclusive at best. Ms. Garcia, her own witness, testified that she did not know if the respondent was assigned terminal IDs other than "A7BN". x x x [R]espondent has failed to discharge her burden of submitting sufficient

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[10] CA *rollo*, pp. 77-78. Italics and emphasis in the original.
[11] Id. at 87-89.
[12] Id. at 87.
[13] Supra note 5.
[14] Id. at 74.

evidence to refute the ITSG Certification showing that she is the owner of the computer terminal with ID "A7C4".

x x x x

Under [SVP Order No. 02-99], the computer terminal owner carries the greater accountability as the presumed author of any transaction done on his or her terminal even assuming, for arguments' sake, there is sharing of both the USER ID and computer terminal. Office Order No. 2-99 creates a presumption of control by the owners over their respective USER IDs and computer terminals. Practically, however, a USER ID is useless without a computer terminal. Conversely, anybody who has complete access to a computer terminal can use the same for any transaction using his or her own USER ID or somebody else's. Thus, where a USER ID is used on another person's computer terminal, it behooves the computer terminal owner to prove lack of complicity with the owner of the USER ID, or lack of opportunity to perform the subject transaction.

There is no showing that there was no way for the respondent to perform the unlawful and fraudulent full payment tagging using her computer terminal. That Ms. Abelgas has been identified as the owner of USER ID "VPAO" does not necessarily mean that the respondent had no involvement in the performance of the subject transaction. Her ownership of the computer terminal carries with it the presumption of control. x x x Indeed, there is nothing in the evidence presented that would support, or tend to support, a conclusion that the respondent had no control over her computer terminal or opportunity to commit the irregularity.

x x x The respondent failed not only in proving that somebody else, aside from herself, used her computer terminal for the purpose of authoring a crime, she also failed to prove that she could not have authored the said crime.

Verily, that the respondent used her computer terminal for the unwarranted and fraudulent tagging, despite being aware of its repercussions on the processing of the member's claims and benefits is a clear manifestation of her mal-intent, more than just an unhealthy regard for her duty and responsibility to protect her computer terminal from all forms of unauthorized use. She is, therefore, liable for Grave Misconduct, and not just for Simple Neglect of Duty or Violation of Reasonable Office Rules and Regulations.[15]

The GSIS justified its finding of Grave Misconduct notwithstanding the fact that a lesser charge of Simple Neglect of Duty and/or Violation of Reasonable Office Rules and Regulations was formally charged. The GSIS held that its ruling is legally plausible since there is enough evidence to prove that the acts of herein petitioner constituted Grave Misconduct. The GSIS further asserted that it is the court that decides the designation of a crime after it has studied the facts, and that charges in an administrative proceeding need not be as precise as those in a criminal prosecution. The GSIS thus ruled, *viz.*:

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[15] Id. at 73-77. Citations omitted.

WHEREFORE, respondent Glenda Rodriguez-Angat is hereby found guilty of Grave Misconduct and meted the penalty of dismissal with all the attendant accessory penalties.[16]

Petitioner appealed the GSIS Decision to the CSC raising the following issues: whether she may be held liable for Grave Misconduct; and, whether there is substantial evidence to find her guilty of Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations.[17]

On May 4, 2010, the CSC issued Resolution No. 100896[18] granting petitioner's appeal, *viz.*:

WHEREFORE, the appeal of Glenda Rodriguez-Angat, Acting Senior Social Insurance Specialist, Loans Department, Social Insurance Group, Government Service Insurance System (GSIS), is hereby **GRANTED**. The Decision dated September 23, 2009 of GSIS President and General Manager Winston F. Garcia, finding Rodriguez-Angat guilty of Grave Misconduct and imposing upon her the penalty of dismissal from the service with all the attendant accessory penalties, is **SET ASIDE**. Accordingly, Glenda Rodriguez-Angat is **REINSTATED** to her former position and shall be paid her back salaries and other benefits corresponding to the period of her illegal termination.[19]

The CSC explained that petitioner may not be held liable for Grave Misconduct, *viz.*:

x x x Pertinent is the case of **People vs. Ramos (296 SCRA 559)** where the Supreme Court ruled, as follows:

"An accused person cannot be convicted of an offense higher than that with which he is charged in the complaint or information on which he is tried. It matters not how conclusive and convincing the evidence of guilt may be, but an accused cannot be convicted of any offense, unless it is charged in the complaint or information on which he is tried or is necessarily included therein. He has a right to be informed of the nature of the offense with which he is charged before he is put on trial. To convict an accused of a higher offense than that charged in the complaint or information on which he is tried would be an unauthorized denial of that right."[20]

The CSC further ratiocinated in its Resolution, *viz.*:

In the instant case, Rodriguez-Angat was formally charged with Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations, which under the Uniform Rules on Administrative Cases in the Civil Service (URACCS) are only less grave and light offenses, respectively. Hence, applying the abovementioned pronouncement of the Supreme Court, Rodriguez-Angat cannot be held guilty of the higher or

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[16] Id. at 79.
[17] Id. at 84; CA *rollo*, p. 191.
[18] Supra note 4, at 81-87.
[19] Id. at 87. Emphasis in the original.
[20] Id. at 85. Italics and emphasis in the original.

grave offense of Grave Misconduct. To do so would constitute a denial of her right to be informed of the nature of the offense with which she was charged.

As regards the issue of whether substantial evidence exists to find Rodriguez-Angat guilty of Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations, the Commission likewise rules in the negative. **Records show that the GSIS failed to sufficiently prove that Rodriguez-Angat did the tagging of the salary loan account of Mercy M. Sy of the Manila Health Department as fully paid despite its outstanding balance or that she allowed others to use her computer terminal in the performance of such act.** What was merely established is that the loan account of Sy was tagged as fully paid using Terminal ID A7C4 which allegedly belonged to Rodriguez-Angat. The GSIS, however, failed to present any evidence to prove that, indeed, Terminal ID A7C4 belongs to Rodriguez-Angat. At this juncture, it is worth stressing that a party who alleges a fact has the burden of proving it. (**Dela Cruz vs. Sison, 451 SCRA 754**), and that allegations must be proven by sufficient evidence – mere allegation is not evidence (**Ramoran vs. Jardine CMG Life Insurance Co., Inc., 326 SCRA 208**).[21]

Respondent moved for reconsideration[22] of CSC Resolution No. 100896. On October 6, 2010, the CSC issued Resolution No. 1000167[23] denying respondent's motion for reconsideration for failure to present new evidence to warrant a reversal or modification of its earlier Resolution, *viz.*:

WHEREFORE, the motion for reconsideration of the Government Service Insurance System (GSIS) is hereby **DENIED**. Accordingly, CSC Resolution No. 10-0896 dated May 4, 2010 **STANDS**.[24]

Respondent sought the reversal of the questioned CSC Resolutions before the CA *via* petition for review[25] under Rule 43 of the Rules of Court. The CA petition raised two issues: whether the CSC erred in applying the 1998 case of *People v. Ramos*[26] in reversing the finding of respondent that petitioner is guilty of grave misconduct; and, whether the IASG's Audit Report and the ITSG's Certification constitute substantial evidence which petitioner failed to rebut with relevant evidence.

In its assailed Decision[27] promulgated on May 31, 2012, the CA reversed and set aside both questioned CSC Resolutions and affirmed the GSIS Decision, *viz.*:

WHEREFORE, premises considered, the petition is **GRANTED**. The assailed *Resolutions* are hereby **REVERSED** and **SET ASIDE** and the GSIS *Decision* dated September 23, 2009 is hereby **AFFIRMED**.

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[21] Id. Additional emphasis supplied.
[22] CA *rollo*, pp. 244-258.
[23] Supra note 4, at 89-92.
[24] Id. at 92. Emphasis in the original.
[25] CA *rollo*, pp. 4-46.
[26] 357 Phil. 559 (1998).
[27] Supra note 2.

SO ORDERED.[28]

The appellate court disagreed with petitioner that the application of the case of *People v. Ramos* deprived her of the right to be informed of the nature of the charge against her. It ruled that petitioner was sufficiently informed of the basis of the charges against her and held that the designation of an offense in an administrative proceeding is not controlling and the person charged may be found guilty of another offense if the substance of the allegations and the evidence presented are sufficient to prove one's guilt.[29] The CA further explained, *viz.*:

> A reading of the formal charge against her reveals that Angat had allegedly used or allowed the use of her terminal in fraudulently tagging the salary loan of Mercy Sy as fully paid when it still had an outstanding balance. Clearly then, Angat was sufficiently informed of the basis of the charge against her. Angat's constitutional right to be informed of the charge against her was therefore not violated. And the failure to designate the offense specifically and with precision is of no moment in this administrative case.[30]

The CA thus concluded, *viz.*:

> x x x **[T]hat the respondent used her computer terminal for the unwarranted and fraudulent tagging**, despite being aware of its repercussions on the processing of the member's claim and benefits **is a clear manifestation of her mal-intent**, more than just an unhealthy regard for her duty and responsibility to protect her computer terminal from all forms of unauthorized use. She is, therefore, liable for Grave Misconduct and not just for Simple Neglect of Duty or Violation of Reasonable Office Rules and Regulations.[31]

As to the issue on whether respondent was able to present substantial evidence to prove the guilt of petitioner, the CA ruled that "the prosecution overwhelmingly established that terminal ID A7C4 belonged to Angat."[32] It based its conclusion on a certified copy of a Certification issued by the ITSG showing that terminal ID A7C4 was used in the fraudulent tagging; on the testimonies of the employee who maintains the record of terminal IDs and IP addresses issued by the ITSG; and on the testimony of the witness who testified that he himself assigned the IP address with terminal ID A7C4 to petitioner.[33] The CA ruled that petitioner on her part failed to disprove that terminal ID A7C4 belonged to her – a fact which was substantially established by respondent. In sum, the appellate court found that the submissions of respondent were sufficient to establish the guilt of petitioner in an administrative proceeding, *viz.*:

> At this point, We must stress that as an administrative proceeding, the evidentiary bar against which the evidence at hand is measured is not

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[28]   Id. at 51. Emphasis in the original.
[29]   Id. at 46.
[30]   Id.
[31]   Id. at 47. Emphasis supplied.
[32]   Id. at 49.
[33]   Id.

the highest quantum of proof beyond reasonable doubt, requiring *moral certainty* to support affirmative findings. Instead, the lowest standard of *substantial evidence*, that is, such relevant evidence as a reasonable mind will accept as *adequate* to support a conclusion, applies. Because administrative liability attaches so long as there is some evidence adequate to support the conclusion that acts constitutive of the administrative offense have been performed (or have not been performed), reasonable doubt does not *ipso facto* result in exoneration unlike in criminal proceedings where guilt must be proven *beyond* reasonable doubt. This hornbook doctrinal distinction undergirds our parallel findings of administrative liability *and* criminal acquittal on reasonable doubt for charges arising from the same facts.[34]

Petitioner moved for reconsideration[35] of the appellate court's Decision, but the motion was denied in a Resolution[36] dated December 4, 2012 due to the lack of new matters to warrant a modification of the assailed Decision. Hence, this appeal raising the following issues for our consideration:

    I.   Did the Court of Appeals acquire jurisdiction over the appeal/petition of GSIS?

    II.   Does the evidence presented warrant the conviction of Angat?

    III.   Assuming that the evidence presented warrant the conviction of Angat, is it lawful to convict her of a higher or graver offense of Grave Misconduct and impose upon her the penalty of Dismissal from service with all its accessory penalties?[37]

We first rule on the issue of jurisdiction.

Petitioner contends that the CA did not acquire appellate jurisdiction due to the belated filing by respondent of its appeal to the CSC Resolutions. According to petitioner, records show that respondent received its copy of the October 6, 2010 CSC Resolution on October 22, 2010 as evidenced by a Certification issued by the Pasay City Central Post Office – contrary to the allegation of respondent that it received the same only on October 27, 2010. Following this argument, petitioner reckons the 15-day period to appeal[38] from October 22, 2010 and claims that respondent had only up to November 8, 2010 within which to appeal the CSC Resolutions to the CA. Thus, when respondent filed its petition for review before the appellate court on November 11, 2010 – or three (3) days after the expiration of the period to appeal – the CSC Resolutions have already become final and not appealable.

We disagree with petitioner and affirm the timeliness of the appeal before the appellate court.

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[34]   Id. at 50-51. Italics in the original.
[35]   Id. at 93-105.
[36]   Supra note 3.
[37]   Id. at 15.
[38]   Pursuant to Section 4, Rule 43 of the Rules of Court.

The confusion brought about by the two (2) dates of receipt – October 22, 2010 and October 27, 2010 – by the Pasay City Central Post Office is settled by the presentation of the envelope with the front portion thereof bearing the date "October 27, 2010" when it was stamped "Received" by the General Services Department of the GSIS. This was corroborated by a Certification[39] dated February 23, 2011 issued by Postmaster IV Lita L. Villaseñor of the Pasay City Central Post Office and attested to by Letter Carrier Jamel Musa (Musa) who delivered the envelope. Petitioner's argument that the date of receipt should be reckoned on October 22, 2010 based on a Certification[40] dated February 8, 2011 issued by Mary S. Asto of the Pasay Central Post Office cannot prevail over the strength of the testimony of Musa who personally hand-delivered the envelope to respondent and whose testimony was corroborated by the presentation of the dispatch document by the Postmaster.

We agree with respondent that this issue had been indubitably proven by the following documentary evidence, *viz.*:

a. The stamp on the face of the envelope containing the assailed resolution of the CSC, the original of which had been duly submitted before the Honorable CA, which clearly reflects that GSIS received the same on 27 October 2010. x x x

b. The original receipt-stamp x x x by the GSIS General Services Department, also states that Registered Mail No. 07984 was duly received by the GSIS on 27 October 2010;

c. In a verification made by the GSIS Investigation Department with the Pasay City Central Post Office, it was revealed that the transmittal slip or "bill of particulars" that included Registered Mail No. 07984 had two dates of receipt bearing the Pasay City Central Post Office's stamp: one is dated 22 October 2010, the other one is dated 27 October 2010 x x x. However, Postmaster IV [Lita L. Villaseñor] of the Pasay Central Post Office issued a Certification x x x clarifying this matter and explaining that:

> This is to certify that as per records of this Office, Registered [Mail] # 07984, posted on October 20, 2010 at Batasang Post Office Quezon City addressed to Atty. Carmel F. Quintos and Atty. Ana Zita B. Abuda of GSIS Financial Center, was received and delivered by LC Jamel Musa on October 27, 2010, see attached copy dispatched, in contradiction to the certification issued on Feb. 8, 2011 the given date was October 22, 2010.[41]

We shall discuss the second and third issues jointly.

Administrative proceedings are governed by the substantial evidence rule where a finding of guilt would have to be sustained for as long as it is supported by substantial evidence that the respondent committed acts stated

39 CA *rollo*, p. 317.
40 *Rollo*, p. 106.
41 Id. at 279. Emphasis omitted.

in the complaint. Substantial evidence is such amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. The standard of substantial evidence is met when there is reasonable ground to believe that respondent is responsible for the misconduct complained of, even if such evidence is not overwhelming or even preponderant,[42] and respondent's participation therein renders him unworthy of the trust and confidence demanded by his position.[43]

In the case at bar, petitioner was formally charged with Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations. Simple neglect of duty is defined as the failure to give proper attention to a task expected of an employee resulting from either carelessness or indifference.[44] It is censurable under Section 52(B)(1) of the Uniform Rules on Administrative Cases in the Civil Service as a less grave offense and is punishable by suspension from office for one (1) month and one (1) day to six (6) months for the first offense, and dismissal for the second offense. Respondent, however, found petitioner guilty of Grave Misconduct and imposed upon her the penalty of dismissal from the service with all the attendant accessory penalties. To be classified as grave, one's misconduct must show the elements of corruption, clear intent to violate the law or flagrant disregard of established rules.[45]

Petitioner questions whether the evidence adduced by respondent is sufficient to establish her guilt and supports the imposed penalty of dismissal from the service. The following facts were indubitably proven in the case at bar – giving us such reasonable ground to believe that petitioner is guilty of the acts alleged in the Formal Charge under GSIS Adm Case No. 07-010 dated July 26, 2007, *viz.*:

One. The full payment tagging was erroneous. Melissa Prado, a member of the audit team that discovered the wrongful full payment tagging, verified and authenticated the audit report which stated that Sy's salary loan was erroneously tagged as fully paid even if she had an outstanding balance.

Two. The erroneous full payment tagging was done using petitioner's computer terminal with ID A7C4. Joseph Sta. Romana (Sta. Romana), tasked of maintaining the record of terminal IDs and IP addresses issued by the ITSG, testified that it was his section which assigned the IDs and addresses, including terminal "A7C4" to petitioner. Sta. Romana further testified that he himself assigned the IP address with Terminal ID "A7C4" to petitioner, *viz.*:

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[42] *Menor v. Guillermo*, 595 Phil. 10, 15 (2008). Citations omitted.

[43] *Government Service Insurance System (GSIS) v. Mayordomo*, G.R. No. 191218, May 31, 2011, 649 SCRA 667, 680. Citations omitted.

[44] *Villanueva-Fabella v. Lee*, 464 Phil. 548, 570-571 (2004).

[45] *Office of the Ombudsman v. Miedes, Sr.*, 570 Phil. 464, 473 (2008), citing *Villanueva v. Court of Appeals*, 528 Phil. 432, 442 (2006) and *Civil Service Commission v. Lucas*, 361 Phil. 486, 490-491 (1999).

Q: So in this Certification pertaining to Item No. 25, Glenda Rodriguez, you were also not told if this is actually the IP address of Glenda Rodriguez, as you have mentioned?

A: No, it's just like this. When that office Manila District was formed, we were the ones who gave those IP assignments, *bagong office kasi iyan eh.*

Q: Were you the one who gave Ms. Glena Rodriguez this[?]

A: Yes.

Q: Aside from this Certification, do you still have any document stating that that particular IP address was assigned to Ms. Glenda Rodriguez-Angat?

A: *Well hindi na kami na-update after that ma-open iyang office na iyon kung me mga movements.*

Q: So you do know if this IP address really belongs to Ms. Glenda Rodriguez-Angat?

A: Originally, as per my record.

Q: But you don't know if there are movements already?

A: Yes. *Iyong movements ng tao[,] hindi kami na-u-update.*

Q: So what does your office do if your office is not being [updated] with [regard] to the movements of the employees?

A: Well[,] *marami pa kaming ibang jobs.*

Q: So you do not do anything with [regard] to have your office being updated with [regard] to the movement of employees?

A: *Kung ini-informed kami[,] i-u-update namin iyong records.*

Q: But if you are not informed[,] you will not do anything?

A: *Wala kaming magagawa.*[46]

Petitioner challenges the testimony of Sta. Romana for being inaccurate because of the latter's statement that the ITSG has not updated its records.   She, however, failed to rebut Sta. Romana's testimony that the IP address and the Terminal ID that were used in the erroneous tagging belonged to her.

Three. The erroneous full payment tagging on petitioner's terminal ID was committed using a User ID – VPAO – which belongs to another person, Vicenta P. Abelgas. This sharing of computer User IDs and Terminal IDs is expressly prohibited under an office regulation, SVP Order No. 02-99, which was existing and in force at the time the erroneous tagging was committed.   SVP Order No. 02-99 specifically

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[46]   TSN (Joseph Sta. Romana), October 30, 2007, pp. 7-9; *rollo*, pp. 144-146.

states that "**[f]ull confidentiality shall be observed by the personnel in the use of his/her USER ID and PASSWORD ensuring that, even under any circumstances, borrowing thereof shall never be allowed.**"[47]   Thus, when another User ID was used to access petitioner's own terminal, an act expressly prohibited under SVP Order No. 02-99, petitioner committed a Violation of Reasonable Office Rules and Regulations as alleged in the Formal Charge.   Petitioner proffered the following explanation that a terminal user did not have full control over one's assigned personal computer during the period that the erroneous tagging was committed.   It fails to convince us, *viz.*:

> During this period, access to the network was difficult because of the slow network connection such that selected personnel of the District Office [were] recalled to the Head Office in September 2003. This was done to facilitate transactions and to speed up the delivery of services to members. Employees and their respective workstations were constantly moved such that terminals were not functioning or else were not connected to the Mainframe network.
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> **To remedy the situation, and in the best interest of service, it became necessary to allow the use of the personal computer (PC) with network connection by another personnel with or without the knowledge or consent of the personnel to [whom] the same was assigned. However, while another personnel was allowed the use of the PC, the User ID of the borrowing personnel was used to access the database.**
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> **Thus, while the questioned transaction of the erroneous tagging of the salary loan account of Ms. Sy may have happened on the terminal of the undersigned, she was not the one who processed the transaction. As may be clearly gleaned from Schedule A of the Report of IASG, it was not the User ID of the undersigned which was used to access the database and process the transaction in question.**
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> Not being in full control of the use of her computer given the situation obtaining at the time the transaction in question was processed, and the indubitable fact that it was not the undersigned who processed the same since it was not her User ID which appeared in the log files extracted by ITSG, undersigned is without doubt free of any involvement or participation, directly or indirectly, in the erroneous tagging of the salary loan account of Ms. Mercy M. Sy.[48]

The foregoing explanation of petitioner regarding the supposed office practice is bare, unsubstantiated and does not change the fact that as early as 1999, SVP Order No. 02-99 has expressly prohibited the sharing of computer terminals. The other defense of petitioner that she could not have been responsible for the erroneous tagging because she belonged to another group and therefore was not part of the Loans Division also fails to persuade us.   To be sure, petitioner was not able to show how this factor could have prevented, or rendered impossible, the commission of the erroneous tagging using her terminal ID.   Lastly, petitioner could not escape liability due to an

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[47]   CA *rollo*, p. 264. Emphasis supplied.
[48]   Id. at 75-76. Emphasis supplied.

alleged computer system error which she was unable to sufficiently explain or corroborate with convincing evidence.

Nonetheless, despite our ruling that petitioner is guilty of Violation of Reasonable Office Rules and Regulations as alleged in the Formal Charge, we disagree with the finding of the appellate court and the respondent that she should be held liable for Grave Misconduct. Jurisprudence is replete with cases stating that misconduct shall be considered grave only in cases where the elements of "**corruption, willful intent to violate the law or to disregard established rules [are proven] by substantial evidence.**"[49] The case of *Government Service Insurance System (GSIS) v. Mayordomo* is instructive, *viz.*:

> To warrant dismissal from the service, the misconduct must be **grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment. Corruption as an element of grave misconduct consists in the act of an official or employee who unlawfully or wrongfully uses her station or character to procure some benefit for herself or for another, at the expense of the rights of others.** Nonetheless, "a person charged with grave misconduct may be held liable for simple misconduct if the misconduct does not involve any of the additional elements to qualify the misconduct as grave. Grave misconduct necessarily includes the lesser offense of simple misconduct."[50]

In the case at bar, respondent was not able to adduce substantial evidence to prove the elements constitutive of Grave Misconduct. Respondent failed to discharge its burden to show clear and convincing evidence that the erroneous full payment tagging was done due to corruption, willful intent to violate the law or persistent disregard of well-known legal rules on the part of petitioner. Instead, respondent simply ratiocinated and concluded its finding of Grave Misconduct on petitioner using her terminal for the erroneous full payment tagging despite her awareness of its repercussions as "a clear manifestation of her mal-intent," *viz.*:

> Verily, **that the respondent used her computer terminal for the unwarranted and fraudulent tagging, despite being aware of its repercussions on the processing of the member's claims and benefits is a clear manifestation of her mal-intent, more than just an unhealthy regard for her duty and responsibility to protect her computer terminal from all forms of unauthorized use.** She is, therefore, liable for Grave Misconduct, and not just for Simple Neglect of Duty or Violation of Reasonable Office Rules and Regulations.[51]

That is not all. Respondent, instead of discharging its burden to present substantial evidence to prove that petitioner is guilty of Grave Misconduct, shifted the burden on petitioner herself to prove that she is not

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[49] *Government Service Insurance System (GSIS) v. Mayordomo*, supra note 43, at 683. Citations omitted; emphasis supplied.
[50] Id. at 683-684. Citations omitted.
[51] *Rollo*, pp. 76-77. Emphasis supplied.

part of a fraudulent scheme that led to the unwarranted full payment tagging. Respondent states in its assailed decision, *viz.*:

> x x x Office Order No. 2-99 creates a presumption of control by the owners over their respective USER IDs and computer terminals. Practically, however, a USER ID is useless without a computer terminal. Conversely, anybody who has complete access to a computer terminal can use the same for any transaction using his or her own USER ID or somebody else's. Thus, where a USER ID is used on another person's computer terminal, **it behooves the computer terminal owner to prove lack of complicity with the owner of the USER ID, or lack of opportunity to perform the subject transaction.**[52]

Hence, when petitioner was not able to prove her "lack of complicity with the owner of the USER ID, or lack of opportunity to perform the subject transaction,"[53] respondent concluded, *viz.*:

> **There is no showing that there was no way for the respondent to perform the unlawful and fraudulent full payment tagging using her computer terminal.** x x x **Indeed, there is nothing in the evidence presented that would support, or tend to support, a conclusion that the respondent had no control over her computer terminal or opportunity to commit the irregularity.**
>
> x x x **The respondent failed not only in proving that somebody else, aside from herself, used her computer terminal for the purpose of authoring a crime, she also failed to prove that she could not have authored the said crime.**[54]

Petitioner in the instant case could not be held guilty of an administrative offense for failure to prove that she is innocent. It is a basic principle in administrative proceedings that the burden of proof to establish the guilt or culpability of the party being accused is on the party making the accusation. Otherwise, the party making the accusation would be allowed to shift the burden of proof on the person accused to prove his or her own innocence.

In the recent case of *Government Service Insurance System v. Chua*,[55] an administrative complaint for grave misconduct, dishonesty and conduct prejudicial to the best interest of the service was filed by the GSIS against therein respondent for false alteration. Respondent allegedly "padded" the salary updates of two applicants which enabled them to receive salary loans in excess of what they were eligible to borrow. Respondent claimed good faith and lack of knowledge of any of the fraudulent scheme. The GSIS found respondent liable on the ground that the fraudulent scheme could not have been perpetrated without respondent's participation as terminal operator. The GSIS stated that respondent's act of encoding false information in a computer terminal to which she had sole access, and the

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[52]   Id. at 75. Emphasis supplied.
[53]   Id.
[54]   Id. at 75-76. Emphasis supplied.
[55]   G.R. No. 202914, September 26, 2012, 682 SCRA 118, 119 & 123.

haste in the grant and release of the loan applications, were sufficient evidence of her concerted participation in the fraudulent scheme to defraud the GSIS. The CA downgraded respondent's offense to simple misconduct, conduct prejudicial to the best interest of the service, and violation of reasonable office rules. On appeal, this Court ruled that the GSIS failed to adduce substantial evidence to prove that respondent was part of the fraudulent scheme. We found that it is not sufficient to hold respondent administratively liable on the mere fact that she alone – being the owner of the computer terminal used and having access to the operator's code to effect the alteration – could have done the encoding of the false salary updates. We further explained, *viz.*:

> x x x As the records show, the respondent did not deny that she might have made the false salary updates. What she contests is the sufficing circumstance as substantial evidence to support her participation in the fraudulent scheme against the GSIS.
>
> The records also disclose that:
>
> *First*. The records do not contain any proof that the respondent's encoding of false salary updates was intentional and had been made in bad faith. We note that the GSIS failed to adduce evidence that the respondent's work in making updates in the GSIS' records was more than "clerical." x x x
>
> *Second*. There is no basis to support the GSIS' and the CSC's conclusions that there had been "close coordination" between the respondent and the other perpetrators; there was no evidence to establish a causal link between the fact of encoding (which was part of the respondent's regular assigned task) and the haste in the grant and release of salary loans (which were done in the Manila District Office).
>
> Notably, the GSIS failed to show proof that she was actually a part of the fraudulent scheme. The records show that all the documents supplied to the respondent were prepared and executed at the Manila District Office and submitted to her by the applicants. The evidence does not show that she had a hand in the preparation of these documents. Neither is there evidence that she knew the employees working in the Manila District Office or the applicants. In fact, the records show that the liaison officer of the Philippine Postal Corporation, who was found to have been part of the anomalous transactions, barely knew the respondent. The records also show that, prior to this administrative complaint, the respondent was among the top employees in the Pasig District Office in her six (6) years of service and had not been involved in any anomalous transaction. Incidentally, no evidence was adduced establishing that the respondent derived any form of benefit in performing the acts complained of.
>
> x x x The respondent admitted that she failed to follow SVP Order No. 02-99 and by allowing other individuals to use her computer terminal and the operator's code despite her knowledge of the prohibition under the rules. In addition, considering the nature of her work, she should have been more circumspect in observing the GSIS rules to ensure the integrity of the information found in its database. Lastly, the element of corruption by the respondent in violating SVP Order No. 02-99 and in encoding false salary updates was not proven. "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." All these, taken together, only amount to simple misconduct.[56]

Prescinding from the foregoing, we cannot sustain the ruling of the GSIS and the CA that petitioner is guilty of Grave Misconduct due to utter lack of evidence.

While we find petitioner guilty of committing Violation of Reasonable Office Rules and Regulations, we cannot hold her guilty of Simple Neglect of Duty as stated in the Formal Charge. Simple neglect of duty is defined as the failure of an employee to give his or her attention to a task expected of him. It signifies a disregard of a duty resulting from carelessness or indifference.[57] In the case of *Escobar vda. de Lopez v. Luna*,[58] we enumerated the following acts to constitute simple neglect of duty, *viz.*:

> Thus, in *Ayo v. Violago-Isnani*, we found respondent clerk of court guilty of simple neglect of duty for causing the delay in the implementation of the writ of execution and suspended him from office for one (1) month and one (1) day. In *Alvarez v. Martin*, we found a sheriff guilty of "failure/refusal to perform official duty" for failing to implement a writ of execution and suspended him for three (3) months without pay. In another case, we found the same sheriff guilty of dereliction of duty for failing to implement writs of execution in several civil cases and imposed against him a fine of ₱10,000.00.

In the case at bar, the erroneous full payment tagging done on petitioner's computer terminal using her Terminal ID and IP address does not qualify as Simple Neglect of Duty. Nonetheless, these facts constitute a clear violation of SVP Order No. 02-99 resulting in Simple Misconduct. Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer.[59] Petitioner's violation of SVP Order No. 02-99 and respondent's failure to prove the elements to qualify petitioner's acts as grave, warrant our finding that petitioner is guilty of Simple Misconduct. Corollary to this ruling, it is now moot to discuss the third issue raised by petitioner on whether she could be held liable of a higher or graver offense of Grave Misconduct.

Under Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service (Uniform Rules), Simple Misconduct is classified as a less grave offense with the corresponding penalty of suspension for one (1) month and one (1) day to six (6) months for the first offense, while

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[56] Id. at 123-125. Citations omitted. Emphasis in the original.
[57] *Escobar vda. de Lopez v. Luna*, 517 Phil. 467, 479 (2006).
[58] Id. at 479-480 (2006). Citations omitted.
[59] Government Service Insurance System (GSIS) v. Mayordomo, supra note 43, at 683.

violation of reasonable office rules and regulations is classified as a light offense imposing the penalty of reprimand for the first offense.

For the imposition of the proper penalty, Section 55, Rule IV of the Uniform Rules provides, *viz.*:

> Section 55. *Penalty for the Most Serious Offense.* If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.

Following Section 55, petitioner should be imposed a penalty ranging from suspension for one (1) month and one (1) day to six (6) months. In view of the presence of one aggravating circumstance due to petitioner committing Violation of Reasonable Office Rules and Regulations, we deem it appropriate to impose the maximum penalty of suspension for six (6) months. This is also the appropriate penalty under Section 49 (c) of the new Revised Rules on Administrative Cases in the Civil Service as promulgated on November 8, 2011, stating that "[t]he **maximum** of the penalty shall be imposed where only aggravating and no mitigating circumstances are present."

WHEREFORE, premises considered, the petition is **PARTLY GRANTED.** The Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 116748 dated May 31, 2012 and December 4, 2012, respectively, are hereby **MODIFIED.** Petitioner **Glenda Rodriguez-Angat** is found **GUILTY** of Simple Misconduct and Violation of Reasonable Office Rules and Regulations and is ordered **SUSPENDED** for **SIX (6) MONTHS.** She is **STERNLY WARNED** that a repetition of the same or similar infractions will be dealt with more severely.
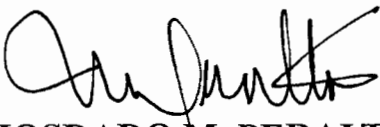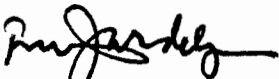
No costs.

SO ORDERED.

MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
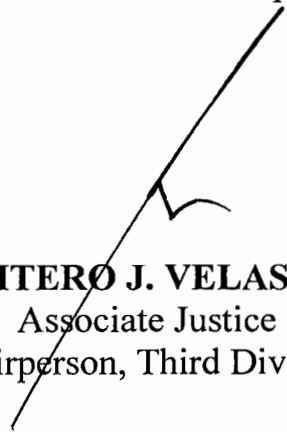Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest 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's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution and the Division Chairperson's Attestation, 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's Division.

ANTONIO T. CARPIO
Acting Chief Justice