

TEOPICIO TAN, COMPLAINANT, VS. SALVACION D. SERMONIA, CLERK IV, MUNICIPAL TRIAL COURT IN CITIES, ILOILO CITY,

A.M. No. P-08-2436 (Formerly OCA I.P.I. No. 06-2394-P). August 04, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before this Court is an administrative complaint filed by Teopicio Tan (Tan) against Salvacion D. Sermonia (Sermonia), Clerk IV of the Municipal Trial Court in Cities (MTCC), Iloilo City, for willful failure to pay just debts and conduct unbecoming a court employee.

According to the Complaint[1] dated 23 January 2006, sometime in February to March 2000, Sermonia purchased on credit from Tan various construction materials amounting to P15,145.50, promising to pay for the same within 30 days. However, after the lapse of the said period, Sermonia failed to pay her debt. Everytime Tan demanded payment from Sermonia, the latter got angry and uttered bad words against the former. Tan made his final demand on 21 November 2000, but Sermonia still refused to pay her debt. Hence, on 16 January 2002, Tan filed before the MTCC a civil complaint against Sermonia for collection of sum of money, docketed as Civil Case No. 20730. A Decision was rendered by the MTCC in Civil Case No. 20730 on 29 December 2003 ordering Sermonia to pay Tan P15,145.50, plus 12% interest per annum, from the date of demand until full payment, and 25% of the amount payable as attorney's fees, as well as to pay the costs of the suit.

On 9 March 2006, the Office of the Court Administrator (OCA) required Sermonia to file her comment within 10 days.[2] However, Sermonia failed to comply, and a 1st Tracer[3] dated 30 June 2006 was issued to her.

In response, Sermonia sent the OCA a letter[4] dated 21 July 2006 requesting an extension of 30 days within which to file her comment since she had yet to secure the services of a counsel. The OCA granted her request on 30 August 2006. Despite the lapse of the extended period granted her, Sermonia still failed to submit her comment. Consequently, then Deputy Court Administrator Zenaida N. Elepaño submitted an Agenda[5] Report on 23 May 2007, informing the Court of Sermonia's refusal to file her comment on Tan's Complaint.

Acting on said Agenda Report, the Court issued a Resolution[6] dated 9 July 2007 directing Sermonia to file her comment within a non-extendible period of 10 days from notice, and to show cause why she should not be administratively dealt with for her failure to file the same comment despite the extended period previously granted her.

Sermonia filed her Comment[7] only on 26 September 2007. Sermonia explained in her Comment that she did not pay her debt to Tan because she opposed the accuracy and justness of the amount he had demanded. Sermonia claimed to have already made partial payments of her debt, but she misplaced the papers/receipts evidencing her payments. She failed to make subsequent payments due to severe financial difficulties, since she was the principal provider for an extended family of elders, nephews, and nieces, plus she was incurring spiraling expenses brought about by her obesity. She did acknowledge, however, that she had moral and legal responsibilities to settle her financial obligation to Tan.

On 14 January 2008, the OCA submitted its Report[8] with the following recommendation:

PREMISES CONSIDERED, it is respectfully recommended to the Honorable Court that respondent Salvacion Sermonia, Clerk IV, MTCC, Iloilo City be SUSPENDED from the service for one (1) year for willful failure to pay just debts and for failure to comply with the directive of the Office of the Court Administrator and WARNED that a repetition of the same or similar infraction in the future will be dealt with more severely.

On 3 March 2008, the Court required the parties to manifest[9] within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed.[10] Since both parties failed to submit such manifestations, the Court considered that they were deemed to have submitted the case for deliberation based on the pleadings filed.

The Court agrees in the findings of the OCA, except in the recommended penalty.

A review of the records would reveal that Sermonia was indeed guilty of willful failure to pay a just debt.

"Just debts" refer to (1) claims adjudicated by a court of law; or (2) claims the existence and justness of which are admitted by the debtor.[11]

In the case at bar, there is no question that Sermonia admitted her debt to Tan when the former stated in her Comment that:

3. [Sermonia], while refusing to pay the debt subject of Civil Case No. 20730, did not do so willfully. Rather, she was only constrained and found difficulty to do so as she was in disagreement with the accuracy and justness of the amount that was being demanded of her by [Tan]. In fact, she had actually made partial payments thereon but has misplaced the small pieces of paper that was issued to her to prove the same. She was just biding for time during which she could have found these small pieces of paper and, thereby, reduce her liability.

4. When [Tan] filed Civil Case No. 20730, [Sermonia] did not file a responsive pleading anymore knowing that without those misplaced small pieces of paper she, nevertheless, would not succeed in reducing her liability anyway. In this regard, in one occasion she just approached the counsel of [Tan] and told him, that she is just submitting herself to the usual course of the proceedings without interposing any defense, in effect, acknowledging the existence of her subject indebtedness. In doing so, she was of the honest belief that she will even make matters much easier for [Tan], who would as a consequence quickly obtain a favorable judgment from the court, which he could cause to be executed for satisfaction anytime.[12] (Emphasis supplied.)

As can be gleaned above, Sermonia does not deny she has an unpaid debt to Tan. Sermonia, though, alleges that she refused to pay the amount demanded by Tan, because she disagreed with the accuracy and justness thereof, given that she had already made previous partial payments of her debt. This is a matter, however, which this Court can no longer take cognizance of in the resolution of the present administrative case.

It must be remembered that Tan already instituted Civil Case No. 20730, an action for collection of sum of money, against Sermonia, before the MTCC. It was in Civil Case No. 20730 where Sermonia could have appropriately assailed the amount being demanded by Tan and raised the defense of previous payments made. Yet, Sermonia chose not to file an answer to Tan's Complaint in Civil Case No. 20730, because she purportedly lost the receipts which could prove the previous payments she had made on her debt. Sermonia deemed it best to just let Civil Case No. 20730 proceed without opposition from her part. The MTCC rendered its Decision on 29 December 2003, ruling against Sermonia and ordering her to pay Tan's total demand of P15,145.50, plus 12% interest per annum, 25% attorney's fees, and costs of the suit. Even with this final and executory[13] judgment of the MTCC in Civil Case No. 20730, Sermonia has still failed to finally settle her obligation to Tan.

In consideration of the foregoing, Tan's claim against Sermonia is a just debt, not only because its existence and justness are admitted by the latter, but also because it was already adjudicated by the MTCC. It is a just debt that remains unpaid by Sermonia.

Sermonia's averment of financial difficulties is not a sufficient excuse for failing to pay her debt to Tan. Nonpayment is not Sermonia's only option. Instead of meeting Tan's demands for payment with anger and foul utterances, Sermonia could have just humbly requested a readjustment of the terms of her debt to something more manageable for her to comply with, given her financial circumstances.

Having incurred a just debt, Sermonia had the moral duty and legal responsibility to settle it when it became due. In the words of this Court in *In Re: Complaint for Failure to Pay Just Debts Against Esther T. Andres*[14]:

The Court cannot overstress the need for circumspect and proper behavior on the part of court employees. "While it may be just for an individual to incur indebtedness unrestrained by the fact that he is a public officer or employee, caution should be taken to prevent the occurrence of dubious circumstances that might inevitably impair the image of the public office." Employees of the court should always keep in mind that the court is regarded by the public with respect. Consequently, the conduct of each court personnel should be circumscribed with the heavy burden of onus and must at all times be characterized by, among other things, uprightness, propriety and decorum.x x x.

Indeed, when Sermonia backtracked on her promise to pay her debt, such act already constituted a ground for administrative sanction,[15] for any act that would be a bane to the public trust and confidence reposed in the judiciary shall not be countenanced.[16] Sermonia's unethical conduct has diminished the honor and integrity of her office, stained the image of the judiciary and caused unnecessary interference, directly or indirectly, in the efficient and effective performance of her functions. Certainly, to preserve decency within the judiciary, court personnel must comply with just contractual obligations, act fairly and adhere to high ethical standards. Like all other court personnel, Sermonia is expected to be a paragon of uprightness, fairness and honesty not only in all her official conduct but also in her personal actuations, including business and commercial transactions, so as to avoid becoming her court's albatross of infamy.[17]

The gravamen of Sermonia's offense is her unwillingness to pay a just obligation. The penalty imposed by the law is not directed at Sermonia's private life, but at her actuation unbecoming a public official.[18]

Section 22(1), Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292, as amended by CSC Memorandum Circular No. 19, series of 1999, provides that willful failure to pay just debts is classified as a light offense, punishable by reprimand for the first infraction, suspension for one to 30 days for the second transgression, and dismissal for the third offense.

Sermonia has been previously charged twice for nonpayment of debts in *Madia-as Lending Corporation v. Salvacion Sermonia*[19] and *GRIIO Lending Services v. Salvacion Sermonia*,[20] and was reprimanded by the Court in both instances. Thus, this is Sermonia's third case of willful failure to pay a just debt, which would have called for her dismissal from service.

Nevertheless, Section 53, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service,[21] grants the disciplining authority the discretion to consider mitigating circumstances in the imposition of the proper penalty. The Court has also ruled that where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe.[22] It is not only for the law's concern for the workingman; there is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on wage earners.[23]

As a result, in several administrative cases, the Court has refrained from strictly imposing the penalties provided

by the law or rules, in the presence of factors such as the offending court employee's length of service, acknowledgment of his or her infractions and feeling of remorse, family circumstances, advanced age, and other humanitarian and equitable considerations.[24]

In the case at bar, the Court, taking into consideration Sermonia's more than 30 years in government service, her voluntary acknowledgment of her indebtedness to Tan, her financial and health difficulties, and the not so substantial amount of her unpaid obligation, finds that suspension for six months without pay is already sufficient penalty.

As a final matter, the Court resolves the show-cause order it issued against Sermonia for her failure to timely file her Comment as directed by the OCA.

Sermonia claims that she has the highest respect for this Court and has no intention of disregarding her duty to obey its orders and processes without delay. She explains that she did not file a comment as directed because she believed, in all honesty and good faith, that while she was civilly liable for a just debt, her failure to settle the same did not amount to an administrative charge for "willful refusal to pay just debt amounting to conduct unbecoming of a court employee." In this regard, she asks for the understanding and compassion of this Court, again taking into consideration her 30 years of continuous and dedicated service in the judiciary.

The Court is not persuaded. The Court finds Sermonia's defense of honesty and good faith utterly baseless. It should be recalled that Sermonia, at first, asked for, and was granted by the OCA, an extension of time to file her comment because she had yet to engage the services of a counsel. This was evidently inconsistent with her subsequent assertion that she did not immediately file her comment, believing in good faith that she did not need to file at all, since she could not be held liable for the administrative charge against her.

Sermonia's failure to comply with the OCA's directive to submit her comment on Tan's Complaint constitutes a clear and willful disrespect, not just for the OCA, but also for the Court, which exercises direct administrative supervision over trial court officers and employees through the OCA. In fact, it can be said that Sermonia's non-compliance is tantamount to insubordination to the Court itself. After all, a resolution of the Supreme Court should not be construed as a mere request, and should be complied with promptly and completely. Such failure to comply accordingly betrays not only a recalcitrant streak in character, but also disrespect for the Court's lawful order and directive.[25] This contumacious conduct of refusing to abide by the lawful directives issued by the Court has, likewise, been considered as an utter lack of interest to remain with, if not contempt of, the system.[26] Sermonia's insolence is further aggravated by the fact that she is an employee of the Judiciary, who, more than an ordinary citizen, should be aware of her duty to obey the orders and processes of the Supreme Court without delay. For her failure to timely file her comment on Tan's Complaint as directed by the OCA, Sermonia should be admonished.

WHEREFORE, respondent Salvacion D. Sermonia, Clerk IV of the Municipal Trial Court in Cities, Iloilo City, is adjudged guilty of willful failure to pay a just debt, for which she is **SUSPENDED** for 6 months without pay. She is further ordered to pay complainant Teopico Tan P15,145.50, plus 12% interest per annum, 25% attorney's fees, and the costs of suit, as decreed in the MTCC Decision dated 29 December 2003 in Civil Case No. 20730, within six (6) months from receipt of this Resolution.

Additionally, Sermonia is **ADMONISHED** for her repeated failure to promptly file her Comment as directed by the Office of the Court Administrator.

Finally, Sermonia is **WARNED** that a commission of the same or similar acts in the future, including a violation of this Resolution, shall be dealt with more severely.

Let a copy of this Resolution be attached to Sermonia's 201 file.

SO ORDERED.

Ynares-Santiago, (Chairperson), Nachura, Peralta, and Bersamin,[*] JJ., concur.

[*] Associate Justice Lucas P. Bersamin was designated to sit as additional member replacing Associate Justice Presbitero J. Velasco, Jr. per Raffle dated 28 July 2009.

[1] Rollo, p. 1.

[2] Id. at 7.

[3] Id. at 8.

[4] Id. at 9.

[5] Id. at 12-13.

[6] Id. at 14.

[7] Id. at 15-19.

[8] Id. at 35-41.

[9] Id. at 42.

[10] Id. at 28

[11] See Section 23, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292.

[12] Rollo, p. 16.

[13] Id. at 17.

[14] 493 Phil. 1, 11 (2005).

[15] Villaseñor v. De Leon, 447 Phil. 457, 464 (2003).

[16] In Re: Complaint for Failure to Pay Just Debts Against Esther T. Andres, *supra* note 14.

[17] Villaseñor v. De Leon, *supra* note 15.

[18] Griro Lending Services v. Sermonia, 463 Phil. 14, 17 (2003), citing Uy v. Magallanes, Jr., 430 Phil. 211, 214 (2002).

[19] A.M. No. P-02-1563, 27 February 2002 (Resolution).

[20] *Supra* note 18.

[21] CSC Memorandum Circular No. 19-99, 14 September 1999.

[22] Re: Habitual Absenteeism of Mr. Fernando P. Pascual, A.M. No. 2005-16-SC, 22 September 2005, 470 SCRA 569, 573.

[23] Mendoza v. Navarro, A.M. No. P-05-2034, 11 September 2006, 501 SCRA 354, 364.

[24] In Re: Administrative Case for Dishonesty Against Elizabeth Ting, Court Secretary I, and Angelita C.

Esmerio, Clerk III, Office of the Division Clerk of Court, Third Division (A.M. No. 2001-7-SC & 2001-8-SC, 22 July 2005, 464 SCRA 1), where therein respondents were found guilty of dishonesty, the Court, for humanitarian considerations, in addition to various mitigating circumstances in respondents' favor, meted out a penalty of six-month suspension instead of imposing the most severe penalty of dismissal from service. In imposing a lower penalty on respondents, the Court took note of the following mitigating circumstances: (1) for ELIZABETH L. TING: her continued long years of service in the judiciary amounting to 21 years; her acknowledgment of her infractions and feelings of remorse; the importance and complexity of the nature of her duties (i.e., the preparation of the drafts of the Minutes of the Agenda); the fact that she stays well beyond office hours in order to finish her duties; and her Performance Rating which has always been "Very Satisfactory" and her total score of 42 points, which is the highest among the employees of the Third Division of the Court; and (2) for respondent ANGELITA C. ESMERIO: her continued long years of service in the judiciary amounting to 38 years; her faithful observance of office rules and regulations from the time she submitted her explanation-letter up to the present; her acknowledgment of her infractions and feeling of remorse; her retirement on 31 May 2005; and her family circumstances (i.e., support of a 73-year old maiden aunt and a 7-year old adopted girl).

In *Concerned Taxpayer v. Doblada, Jr.* (A.M. No. P-99-1342, 20 September 2005, 470 SCRA 218), the penalty of dismissal imposable against therein respondent Norberto V. Doblada, Jr., was reduced by the Court to six-month suspension without pay for the attendant equitable and humanitarian considerations, to wit: Doblada, Jr. had spent 34 years of his life in government service, and he was about to retire; this was the first time that he was found administratively liable per available record; Doblada, Jr. and his wife were suffering from various illnesses that required constant medication, and they were relying on Doblada Jr.'s retirement benefits to augment their finances and to meet their medical bills and expenses.

In *Civil Service Commission v. Belagan* (G.R. No. 132164, 19 October 2004, 440 SCRA 578, 601), Allyson Belagan, who was charged with sexual harassment and found guilty of Grave Misconduct, was meted out the penalty of suspension from office without pay for one year, instead of the heavier penalty of dismissal, given his length of service, unblemished record in the past, and numerous awards.

In *Buntag v. Pana* (G.R. No. 145564, 24 March 2006, 485 SCRA 302), the Court affirmed the findings of the Court of Appeals and the Ombudsman when they took into consideration Corazon G. Buntag's length of service in the government and the fact that this was her first infraction. Thus, the penalty of dismissal for Falsification of Official Document was reduced to merely one-year suspension.

[25] *Tugot v. Judge Coliflores*, 467 Phil. 391, 402 (2004).

[26] *Parane v. Reloza*, A.M. No. MTJ-92-718, 7 November 1994, 238 SCRA 1.

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