

JUDGE ADORACION G. ANGELES, REGIONAL TRIAL COURT, BRANCH 121, CALOOCAN CITY, COMPLAINANT, VS. PABLO C. GERNALE, JR., DEPUTY SHERIFF, REGIONAL TRIAL COURT, BRANCH 121, CALOOCAN C...

A.M. No. P-96-1221 (Formerly A.M. No. OCA IPI No. 96-87-P). June 19, 1997

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PER CURIAM:

This is an administrative case filed against Deputy Sheriff Pablo C. Gernale, Jr. of the Regional Trial Court, Branch 121, of Caloocan City for direct bribery and grave misconduct. The complaint was filed by Judge Adoracion G. Angeles of the same court, recommending the dismissal of respondent from the service.

The charge of direct bribery stemmed from respondent's service of a writ of preliminary attachment in Civil Case No. C-16305, entitled "Asian Footwear and Rubber Corporation vs. Angelito Daniel, doing business under the name and style of "Lito's" formerly 'Anrizzdon Gallery,'" of the court where both parties worked. The case was the subject of a compromise agreement which provided:[1]

"3. Defendant agrees to reimburse Plaintiff expenses for the litigation such as Filing Fee in the sum of P465.00, Insurance Premium for Attachment Bond in the sum of P1,039.58, Sheriff Services in serving attachment in the sum of P3,000.00 and Attorney's Fees of P2,000.00; (Emphasis added)"

At the hearing of the case on September 29, 1995, during which the compromise agreement was submitted for approval of the court, Judge Angeles was told by counsel for defendant, Atty. Renato Mercado, and by the representative of the plaintiff, Noli Latoga, that respondent sheriff had demanded P5,000.00 (which he later reduced to P3,000.00) from Latoga to "facilitate" the service of the writ of attachment in Solano, Nueva Vizcaya.[2] Latoga gave respondent sheriff P3,000.00, in addition to shouldering the expenses for food, transportation, and hotel accommodations, as he and his counsel accompanied respondent to Nueva Vizcaya to serve the writ of preliminary attachment.

Respondent admitted receipt of P3,000.00 from Latoga but claimed that it had been voluntarily given to him. Upon Judge Angeles' directive, respondent returned the money to Latoga in two installments of P1,772.00[3] and P1,228.00.[4]

The charge of gross misconduct, on the other hand, arose from respondent's behavior during the Christmas party held on December 21, 1995 by employees of the court. According to Judge Angeles, at around 3:30 in the afternoon, respondent arrived drunk and noisy, causing unease among the staff members and fear among their children; that when she (Judge Angeles) asked respondent to behave himself, respondent dared her to sue him and shouted that he was not afraid of her; and that the party had to stop as respondent could not be made to quiet down and leave. Judge Angeles issued an order finding respondent guilty of direct contempt and ordered him imprisoned for one day and to pay a fine of P10.00.[5]

In his comment dated April 15, 1996, respondent sheriff admitted receipt of P3,000.00 from Noli Latoga but

claimed that the money was given to him as a token of appreciation for going out of his way to serve the writ of attachment in the province, leaving his family for this purpose for two (2) days; and that he himself told Latoga that he (Latoga) had no obligation to pay him (respondent) for his services, and that is why he readily agreed to return the money when told to do so by Judge Angeles. As for his alleged misconduct during the Christmas party, respondent claimed that he “made fun and clowned [and] yes was a little noisy” but did so only to liven up and otherwise dreary party; that when Judge Angeles came out of her chambers and ordered every body to keep quiet, he mustered the courage to tell Judge Angeles to lighten up and forget for the moment that she was a judge and, in the spirit of Christmas, join in the fun; that Judge Angeles resented this and even “at a time when peace, goodwill to all men, forgiveness, joy, love should be the theme” had him jailed for direct contempt which caused alarm to his family because he failed to come home that day; that it was Judge Angeles’ actuations which in fact disrupted and untimely ended the Christmas party; that he could not have possibly committed the acts imputed to him since he “not only respects but fears” Judge Angeles; and that since he had become deputy sheriff in November, 1984 he had had an unblemished record of service.

In reply, Judge Angeles pointed out that it was the duty of respondent to serve the writ of preliminary attachment and he should not accept money from any of the parties; that in fact respondent did not have to undertake the trip to Solano, Nueva Vizcaya because he could just have requested the court to indorse the writ of attachment to the sheriff of that place, but respondent wanted to have an excuse to ask for money; that respondent violated P.D. No. 46 which prohibits public officials from receiving gifts on any occasion, including Christmas; and that respondent’s defiance of her during the Christmas party was probably due to his resentment at being ordered by her to return the P3,000.00.

In rejoinder, respondent alleged that it was unfair for Judge Angeles to claim that it was monetary consideration which motivated him to go to Nueva Vizcaya because it was she who had ordered him to implement the writ.

This case was referred to Executive Judge Bayani S. Rivera of the Regional Trial Court of Caloocan City for investigation, report, and recommendation. Finding “no significant issues of fact” involved, Judge Rivera dispensed with hearing and required Judge Angeles and respondent to submit their memoranda. On November 26, 1996, Judge Rivera submitted his report, recommending that respondent be fined P3,000.00, with warning that repetition of the same offense would be dealt with more severely for accepting P3,000.00 from Noli Latoga. Judge Rivera thought it “sufficient comeuppance” for respondent’s behavior at the Christmas party that he was jailed for one day and fined P10.00.

Respondent maintains that the P3,000.00 which he received from plaintiff’s representative, Noli Latoga, was given to him as a token of appreciation. The fact remains, however, that plaintiff later tried to pass the expense on to the defendant in the parties’ compromise agreement in Civil Case No. C-16305. If Latoga had given the amount simply as a “token of gratitude” for respondent’s services, it was unlikely that he would try to recover it as an expense of litigation. Besides, the amount of P3,000.00 is no trifling amount. As the investigating Judge points out, it is roughly half the month salary of P6,604.00 of respondent and, as such, cannot be considered a token. If this amount had not been ordered returned by Judge Angeles, it is very likely plaintiff in the case would have insisted on its payment by defendant as provided in their compromise agreement.

It is hardly necessary to say that the conduct and behavior of those connected in one way or another with the dispensation of justice, from the presiding judge to the sheriff and the deputy sheriff to the lowliest clerk, should at all times be characterized by propriety and decorum and must, above all, be above suspicion.[6] Respondent is guilty of soliciting money from a party to a case in violation of Rule XIV, Sec. 23(k) of the Omnibus Civil Service Rules and, in accordance with that provision and the applicable rulings,[7] he should be dismissed from the service.

Anent the charge of gross misconduct, misbehavior, and disrespect towards Judge Angeles, the Court disagrees with the investigating judge's conclusion that the fact of respondent being incarcerated and having been made to pay a fine for direct contempt already constituted "sufficient comeuppance." Disciplinary proceedings must be distinguished from contempt proceedings under Rule 71, since they involve different and separate procedures.[8] The penalty for one cannot take the place of the other.

Respondent denies the charge of gross misconduct. It is noteworthy that he does not deny that he was under the influence of liquor at the time of the incident. It cannot therefore be that Judge Angeles strongly reacted to his behavior by ordering him jailed for contempt because the Judge is so humorless or takes herself so seriously that she took offense at what respondent did when the fact is that it was all in the spirit of the occasion that respondent did so. Respondent thus deserves to be disciplined for his behavior.

Be that as it may, even though respondent already serve sentence for contempt and although respondent's behavior was censurable, we do not think Judge Adoracion was justified in treating respondent's act as contempt of court. The fact is that what was disrupted was not a judicial proceeding but a Christmas party. Judge Angeles was entitled to respondent's respect even if it was a Christmas party in which she was present. But to consider respondent's breach of propriety and decorum contempt of court would be to lose sight of the fact that essentially the power to cite for contempt is to be exercised strictly for the preservation of the dignity of the court and its proceedings. As held in *Buyco vs. Zosa*,[9] a judge should always bear in mind that the power to punish for contempt should be exercised for purposes that are not personal, because that power is intended as a safeguard, not for judges as persons, but for the functions that they exercise.

WHEREFORE, respondent Deputy Sheriff Pablo C. Gernale, Jr. is DISMISSED from the service for improper solicitation and grave misconduct with forfeiture of all leave credits and retirement benefits and with prejudice to reemployment in any branch of the government, including government-owned or controlled corporations.
SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Mendoza, Francisco, Hermosisima, Jr., Panganiban, and Torres, Jr., JJ., concur.
Kapunan, J., on leave.

[1] Complaint, Annex A; Rollo, p.7.

[2] Pursuant to Rule 141, Sec. 7, sheriff's expenses in servicing court processes are approved by the court and paid by the interested party to the clerk of court.

[3] Per acknowledgment receipt dated October 6, 1995; Rollo, p. 12.

[4] Per acknowledgment receipt dated October 10, 1995; Id., p.13.

[5] Complaint, Annex G; Id., p.15.

[6] *Llanes vs. Borja*, 192 SCRA 288 (1990).

[7] See *Lim vs. Guasch*, 223 SCRA 726 (1993); *Lacuata vs. Bautista*, 235 SCRA 290 (1994); *Padilla vs. Arabia*, 242 SCRA 227 (1995).

[8] *Zabala vs. Judge Dictado*, A.M. No. RTJ-89-375, March 6, 1990, En Banc Minute Resolution; *Balasabas vs. Aquilizan*, 106 SCRA 489 (1981).

[9] 145 Phil. 663, 680 (1970); *Austria vs. Masaquel*, 20 SCRA 1247, 1260 (1967).

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