OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. MAGDALENA G. MAGNO, CLERK OF COURT II, MUNICIPAL TRIAL COURT, JAEN, NUEVA ECIJA, RESPONDENT.

A.M. No. P-00-1419. October 17, 2001

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PER CURIAM:

This is a case of dishonesty committed by respondent Clerk of Court Magdalena G. Magno of the Municipal Trial Court of Jaen, Nueva Ecija.

The antecedent facts are:

On March 26, 1999, a judicial audit and physical inventory of court cases was conducted in the Municipal Trial Court of Jaen, Nueva Ecija by a team from the Office of the Court Administrator (OCA) in view of the forthcoming retirement of Presiding Judge Tiburcio V. Empaynado on May 21, 1999.

In his Report to the Chief Justice dated November 15, 1999, then Court Administrator Alfredo Benipayo included therein the information that according to a daily tabloid, Magdalena G. Magno, Clerk of Court II of the Municipal Trial Court of Jaen, Nueva Ecija, was entrapped and arrested in her office by Agents of the National Bureau of Investigation (NBI). She allegedly received marked money bills amounting to P4,000.00 which she demanded as "grease money" from one Leon Medestomas, plaintiff in Civil Case No. 2338 for ejectment with damages, for the implementation of a writ of execution/demolition issued therein.

In a Resolution dated January 18, 2000, this Court requested the NBI Director to furnish it with the evaluation and report on the entrapment of respondent Magno.

Then NBI Director Federico M. Opinion, Jr. complied with the request. On June 20, 2000, this Court referred his letter (with the required Evaluation and Report on the entrapment case) to the OCA.

On August 29, 2000, this Court issued a Resolution directing that the NBI Evaluation and Report on the entrapment of Magno be docketed as A. M. No. P-00-1419 (Office of the Court Administrator vs. Clerk of Court Magdalena G. Magno, MTC, Jaen, Nueva Ecija). In the same Resolution, Magno was suspended from office pending resolution of the case and was required to submit her comment on the NBI Report.

The NBI Report states:

> "MTC (Jaen, Nueva Ecija) Clerk of Court MAGDALENA G. MAGNO demanded 4,000.00 `grease money' from Complainant LEON MEDESTOMAS in exchange for the implementation of a writ of execution on a demolition order issued by the said trial court re: Civil Case No. 2338 (Ejectment with Damages). Subject MAGNO threatened Complainant that the writ of execution would not be prepared and implemented unless Complainant gave-in to Subject's demand.
>
> a) Complaint against Clerk of Court MAGDALENA MAGNO for alleged extortion activities was filed directly in this Command by LEON M. MEDESTOMAS, assisted by his counsel Atty. ARSENIO REYES.

b) On 24 August 1992, complaint for Ejectment with Damages was filed by spouses LEON and LYDIA MEDESTOMAS against FLORENTINO MEDESTOMAS before the Municipal Trial Court of Jaen, Nueva Ecija, and said case was docketed under Civil Case No. 2338 (Complaint dated 18 August 1992, Annex "B").

c) On 29 March 1999, a Resolution was issued by Hon. TIBURCIO EMPAYNADO, Judge, MTC, Jaen, Nueva Ecija, relative to the aforesaid case. In that Resolution, the motion for demolition was granted and Judge EMPAYNADO ordered Clerk of Court MAGDALENA MAGNO to issue a Writ of Demolition (Resolution dated 29 March 1999, Annex "C").

d) Subject MAGDALENA MAGNO demanded P 4,000.00 cash from him for the issuance and implementation of Writ of Demolition and Subject threatened him that she is the only one who could cause the issuance and implementation of the said Demolition Order (Sworn Statement of LEON M. MEDESTOMAS, Annex "D").

e) An entrapment operation against Subject was planned by this Command. For this purpose, a Forensic Chemist was summoned for the dusting and marking of money bills which will be utilized for the said operation (Request for Forensic Examination dated 30 April 1999, Photocopies of marked and dusted money bills, Annexes "E" & "F").

f) On 30 April 1999, Agents of this Command arrested Subject inside her office in MTC, Jaen, Nueva Ecija and found in her possession were marked money bills and unsigned Writ of Demolition pertaining to Civil Case No. 2338 (Joint Affidavit of Arresting Agents, Unsigned Writ of Demolition, Annexes "G" & "H").

g) Subject MAGNO was immediately brought to our office, where she was photographed, booked and fingerprinted. After she was apprised of her constitutional rights, she opted to remain silent (Booking Sheet, Arrest Report and Arrest Information Sheet, Annexes "I" & "J").

h) Complainant gave to Subject the P4,000.00 marked money bills who in turn showed to him an unsigned Writ of Demolition which according to Subject would now be forwarded to the Sheriff for execution (Supplemental Sworn Statement of LEON M. MEDESTOMAS, Annex "K").

i) Subject was interviewed relative to her defense that the said P 4,000.00 was not intended for her but to the Sheriff who would ...implement the said order, but she could not give the name of the Sheriff, which led the Undersigned to a conclusion that there is NONE.

j) Ultraviolet light examinations conducted on the dorsal and palmar aspects of the left and right hands of Subject showed the presence of flourescent speeks and smudges. Similar examinations made on the money bills showed the presence of yellow flourescent powder and the marking PCR 4/30/99 CABDO-NBI (Request for Ultraviolet Examination, and Certification from NBI Forensic Chemistry Division, Annexes "L" & "M").

k) On 01 May 1999, a transmittal letter was forwarded to the Office of the Cabanatuan City Inquest Prosecutor recommending that Subject MAGDALENA MAGNO be prosecuted for the crime of Robbery/Extortion, defined and penalized under Article 294 of the Revised Penal Code (Transmittal Letter, Annex "N")." (Emphasis ours)

An Information for direct bribery against respondent Magdalena Magno was subsequently filed with the Regional Trial Court (Branch 36) of Gapan, Nueva Ecija, docketed as Criminal Case No. 8936. But the said court, in its order dated July 24, 2000, quashed the Information for lack of jurisdiction. The record of the instant administrative case does not contain further details on the progress of this criminal case.

On September 21, 2000, respondent Magno filed her comment on the NBI Report. She denied the charge that she demanded and received from Leon Medestomas P4,000.00 as "grease money". She claimed that the amount was intended to be given to the sheriff to defray the latter's expenses in the implementation of the writ of execution/demolition. She recalled that on April 21, 1999, Medestomas went to her office to inquire as to (1) who

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would implement the writ of demolition; and (2) the amount needed for its implementation. She informed Medestomas that she would ask the sheriff who is familiar with the expenses involved in the implementation of the writ. On April 23, 1999, she discussed the matter with Sheriffs Mendoza and Palor and they gave her a written estimate of expenses in the sum of P4,000.00. When Medestomas returned to her office on the last week of April, 1999, she gave him the sheriffs' written estimate and told him that the money will be deposited with the MTC of Jaen and that any amount unspent will be returned to him as required under Section 9, Rule 141 of the Revised Rules of Court. On April 30, 1999, Medestomas went to her office again and deposited with the court P4,000.00 for the sheriffs' expenses. She then counted the money in the presence of Medestomas inside her office and scribbled a temporary receipt for the amount. But when she was about to give the receipt to Medestomas, the latter hurriedly left. She called him, instructing him to get the receipt, but he ignored her. [This specific incident was allegedly witnessed by one Marcela Millar, a Staff Assistant in the office, who executed a sworn statement which forms part of her (Magno's) defense.] Thereupon, Agents of the NBI then swarmed her office and took the record of the case of Medestomas, together with the P4,000.00 placed between the pages thereof. The NBI Agents arrested her and took her to the NBI Office in Cabanatuan City where she was interrogated, fingerprinted and detained for three days.

On the basis of the records, we find respondent Magno administratively liable for dishonesty.

Leon Medestomas reported to the NBI that respondent demanded and received P4,000.00 from him as "grease money" in exchange for the implementation of the writ of demolition as ordered by the trial court. Medestomas further admitted that Magno made a threat that the writ of demolition would not be prepared and implemented unless he accede to her demand. Undoubtedly, this accusation against Magno is very serious. That he reported the incident to the NBI and engaged the legal services of Atty. Arsenio Reyes imply that Medestomas meant business and must have understood the implication and consequences of his bold act. His grave declaration that respondent asked "grease money" so that the writ of demolition would be implemented is certainly one which would besmirch her name and career. Indeed, Medestomas would not simply impute such wrongdoing against respondent if there were no truth in it. If Medestomas' declaration lacked sincerity and truth, his lawyer himself, as well as the NBI, would not have planned and pursued the entrapment. The NBI knew very well its job, and it would not have conducted an entrapment operation if it were not fully convinced of the veracity of Medestomas' charge.

We observe that respondent Magno's comment on the NBI Report only strengthens the veracity of the extortion account. In her comment, she admitted that she asked and received P4,000.00 from Medestomas, but explained that the amount was intended as sheriff's expenses for the implementation of the order of demolition, as required by Section 9, Rule 141 of the Rules of Court, as amended, which provides:

> "Sec. 9. Sheriffs and other persons serving processes.-
>
> xxx xxx xxx
>
> In addition to the fees herein above fixed, the party requesting the process of any court, preliminary, incidental, or final, shall pay the sheriff's expenses in serving or executing the process, or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guard's fees, warehousing and similar charges, in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex-oficio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. Any unspent amount shall be returned to the party making the deposit. x x x." (Emphasis ours)

Let us examine the above-quoted provision if it jibes with respondent Magno's explanation. The rule clearly

requires that the party requesting the court process - which in this case is a writ of demolition - shall pay the sheriffs expenses in the execution thereof, "in an amount estimated by the sheriff, subject to the approval of the court." The rule further requires that it is only "(u)pon approval of said estimated expenses" that "the interested party shall deposit such amount with the clerk of court and ex-officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process...."

In the present case, respondent Magno claimed that she showed Leon Medestomas a written estimated expenses for the implementation of the writ of demolition prepared by the sheriffs in the amount of P4,000.00. This written estimate of expenses was not, however, confirmed by Medestomas. Magno further asserted that she prepared a receipt showing that the amount of P4,000.00 was paid to her by Medestomas, but she was not able to give it to him as he hurriedly left her office. Again, Medestomas did not confirm this allegation. We believe that the written estimate of expenses allegedly prepared by the sheriffs, as well as the receipt for P4,000.00 written by respondent, actually do not exist. These documents were NOT among those found by the NBI Agents immediately after the entrapment of respondent in her office. What the NBI Agents found in her possession were the marked money bills of P4,000.00 and the unsigned Writ of Demolition pertaining to Civil Case No. 2338, as stated in paragraph (f) of the NBI Report.

But what is more revealing is the undisputed fact that respondent asked and received the P4,000.00 from Medestomas without obtaining the approval of the trial court. The provision of Section 9 is very clear that the amount of the sheriffs expenses as approved by the court should be the amount which Medestomas shall deposit with the Clerk of Court.

Respondent Magno's utter failure to comply with the basic and simple requirements of Section 9 of Rule 141 definitely bolsters the veracity of Leon Medestomas' accusation against her.

We hold that respondent Magno's questioned acts constitute dishonesty, a threat to the very existence of our justice system. Magno is an officer of the court and is called upon to serve its orders and writs and execute all its processes. As such, she is a part of the administration of justice and is required to live up to the strict standards of honesty and integrity in public service. Her conduct must at all times be characterized by honesty and must constantly be above suspicion. Any act, therefore, that tends to erode the faith of the people in the judiciary cannot be countenanced.

We are convinced that the inculpatory acts committed by respondent Clerk of Court Magdalena Magno are so grave as to call for the most severe penalty. Dishonesty, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits except accrued leave credits, and perpetual disqualification for reemployment in the government service. This penalty is in accordance with Sections 52 and 58, Rule IV of the Civil Service Commission Memorandum Circular No. 19, Series of 1999 (Revised Uniform Circular No. 19, Series of 1999 (Revised Uniform Rules On Administrative Cases In The Civil Service), which provide:

> "RULE IV. PENALTIES
>
> Section 52. Classification of Offenses. -- Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.
>
> A. The following are grave offenses with their corresponding penalties:
>
> 1. Dishonesty
>
> 1st offense — Dismissal

> xxx xxx
>
> Section 58. Administrative Disabilities Inherent in Certain Penalties.
>
> a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision."

WHEREFORE, respondent Clerk of Court Magdalena G. Magno is found GUILTY of dishonesty and is DISMISSED from office, with forfeiture of retirement benefits (except accrued leave credits), and with prejudice to re-employment in any branch or instrumentality of the government, including government owned or controlled corporations.

Let a copy of this Decision be attached to respondent's records with this Court.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.
Vitug, J., on official leave.

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