

**CARLOS MENDOZA, COMPLAINANT, VS. NICOLAS TIONGSON,
DEPUTY SHERIFF, MCTC, BRANCH 3, MANILA, AND ELIZUR “SOL” D.
CONTI, PROCESS SERVER, SAME COURT, RESPONDENTS.**

A.M. No. P-90-454. December 17, 1996

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PER CURIAM:

What brings our judicial system into disrepute are often the actuations of a few erring court personnel peddling influence to party-litigants, creating the impression that decisions can be bought and sold, ultimately resulting in the disillusionment of the public. This Court has never wavered in its vigilance in eradicating the so-called "bad eggs" in the judiciary. And whenever warranted by the gravity of the offense, the supreme penalty of dismissal in an administrative case is meted to erring personnel.

This case was commenced by a sworn affidavit-complaint^[1] dated March 26, 1990 of complainant Carlos Mendoza charging respondents Nicolas Tiongson and Elizur "Sol" Conti with swindling as defined under the Revised Penal Code and Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, committed in relation to Civil Case No. 130144, for unlawful detainer filed in Branch III of the Municipal Trial Court (MTC) of Manila.

In his sworn affidavit-complaint, complainant alleged that he was the owner and general manager of the Carlos Mendoza Trading and former owner of the four-storey Doña Elena Building. Sometime in 1986 or prior thereto, complainant obtained a commercial loan from Prudential Bank and Trust Co. To secure the loan, several real properties including the Doña Elena Building were offered and taken as collateral. Due to business reverses, complainant was not able to pay the said loan. Consequently, in 1988, the bank foreclosed complainant's collateral, including the Doña Elena Building. Despite complainant's failure to redeem the properties within the one-year period, the bank, upon representation of complainant's sister, Amelia Mendoza, permitted her to repurchase the foreclosed real properties. Since at that time, complainant and his sister did not have enough funds to cover the repurchase price of P4.2 million, complainant's sister negotiated with JUL-VIZ Realty Development Corporation (a domestic corporation engaged in realty business headed by a Mr. Victor Chow) for the latter to undertake the repurchase directly from the bank. JUL-VIZ then consummated said repurchase. Ownership was thus transferred in favor of JUL-VIZ by virtue of a Deed of Absolute Sale dated August 9, 1989, and a new title was issued by the Register of Deeds of Manila on September 28, 1989. Thereafter, an agreement between Amelia Mendoza and Victor Chow was entered into, that after repurchase of said building, Amelia Mendoza as attorney-in-fact of JUL-VIZ shall undertake such court action as may be necessary to evict the occupants of the building who were delinquent in rental payments and who had no subsisting lease contracts. Hence, after due notice to occupants to vacate and their failure to do so, JUL-VIZ thru Amelia Mendoza filed on October 10, 1989 a case for unlawful detainer with the MTC of Manila. The case was docketed as Civil Case No. 130144 and was assigned to Branch III.

Respondent Carlos Tiongson, as Deputy Sheriff and Elizur (Sol) Conti as Process Server of the Manila MTC, Branch III, were assigned the task of serving summons to the 14 defendants. In the course of serving summons,

respondents became acquainted with complainant. Respondent Tiongson represented to complainant that he is the nephew of Judge Benjamin Tiongson of the MTC of Manila and had influence to obtain a favorable decision, subject of course to certain monetary considerations. In the process, respondent Tiongson demanded various sums of money on different occasions (totalling P20,000.00 in all), allegedly for the purpose of "expediting" a favorable decision for the plaintiff JUL-VIZ. The payments were allegedly made directly to respondents Tiongson and Conti in cash, at the office of complainant Mendoza located at No. 674 Ronquillo St., Manila, and witnessed by Andrew Mendoza and Crispino Maquirang. To convince complainant to fork over the money, respondent Conti, in the presence of several of complainant's employees, wrote in his own handwriting what he claimed would become the dispositive portion[2] of the decision in favor of plaintiff JUL-VIZ. After having collected the last amount on February 2, 1990, respondents Tiongson and Conti made themselves scarce, and no longer answered complainant's phone calls or showed themselves to the latter. Subsequently, the court rendered a decision adverse to plaintiff JUL-VIZ, and dismissed the complaint.

Respondent Nicolas Tiongson filed his undated comment[3] in which he vehemently denied the allegations in the complaint, branding them as "falsehoods in (sic) the highest degree." He insisted that the charge against him was a mere fabrication to exact vengeance for complainant's defeat before the Manila MTC, Branch 3, where respondent Tiongson is employed. He claimed that it was really complainant who offered an amount but he (Tiongson) turned it down, saying that Judge Jose V. Latayan who heard the case is very strict and decides cases only on the merits.

Respondent Elizur (Sol) Conti to date failed to file any comment. In a Resolution[4] dated May 18, 1992, this Court resolved to require respondent Conti to show cause why he should not be disciplinary dealt with or held in contempt for failure to comply with its Resolution dated February 5, 1992 requiring said comment within ten (10) days from receipt thereof.

In connection therewith, a certification[5] dated August 10, 1992 was issued by Atty. Erlinda C. Verzosa, Director III,[6] then Officer-In-Charge, Office of Administrative Services (OAS) of the Supreme Court, to the effect that respondent Conti, Sheriff II, Branch XIX, MTC, Manila, tendered his resignation effective at the close of office hours of July 31, 1992, and that the same had not yet been accepted by the Court and was still pending up to that writing.

On September 2, 1992, this Court referred this case to the Office of the Court Administrator for evaluation, report and recommendation. But at the instance of the then Deputy Court Administrator, this Court resolved[7] on May 5, 1993 to refer this case to the Executive Judge of the Regional Trial Court of Manila for investigation, report and recommendation.

In his Report dated April 24, 1996 the investigating judge, Acting Executive Judge William M. Bayhon, stated that the parties agreed to submit the case for resolution on the basis of complainant's sworn statement, the comment of respondent Tiongson and the records of the case. Upon a thorough examination of the facts, the investigating judge came to the conclusion that the complaint against respondents was indeed meritorious. After noting that the comment of respondent Tiongson contained a mere general denial of complainant's allegations along with the claim that complainant was allegedly out to "exact vengeance", Executive Judge Bayhon observed wryly:

"If the complaint of Carlos Mendoza is not true why would Carlos Mendoza exact vengeance against him for the adverse decision. It was the judge who made the decision and not the respondents.

If one was to follow this reasoning and logic of the respondents, then there is truth in the charges against respondents. They received money from the complainant upon the assurance that complainant could get a

favorable decision. But the decision was adverse. Mr. Mendoza therefore has reasons to (complain)."

Thus, the Investigating Judge recommended:

"WHEREFORE, in view of the foregoing, this Court finds respondents Nicolas Tiongson, Deputy Sheriff and Elizur (Sol) Conti, also a deputy sheriff of the Metropolitan Trial Court to have violated the Law on Anti-Graft and Corrupt Practices (Act).

In view of the gravity and seriousness of the offense charged against both respondents, it is recommended that they be separated/dismissed from the service.

With respect to Elizur Conti, Sheriff II of the MTC, it is recommended that his resignation as of July 31, 1992, which has not been accepted as of August 10, 1992 (per Certification of Erlinda Verzosa, Director III) be accepted.

It also appears that Nicolas Tiongson (had) filed a resignation (letter) dated February 7, 1996, which as of this day has not been acted upon(;) acceptance of the same is hereby recommended."

The foregoing report/recommendation was endorsed to us via a Memorandum dated September 11, 1996 by then Acting Court Administrator Reynaldo L. Suarez, in which he expressed full concurrence with the findings of the investigating judge, but concluded that respondents' actuations constituted grave misconduct and called for their dismissal from the service, instead of acceptance of their resignations.

We agree with the aforementioned findings that respondents are administratively guilty of the offense charged and should thus be dismissed from service.

Respondent Conti ignored and failed to comply with three Resolutions issued by this Court repeatedly requiring him to file comment. This fact alone constitutes gross insubordination as would warrant disciplinary sanction by this Court. His resignation, sans any comment or explanation, only bolsters the charge against him and manifests his guilt for the offense complained of. Even after the non-acceptance of his resignation, he still did not bother to inquire as to the reason therefor or explain his side of the matter. By his complete and stubborn silence, he is deemed to waive his right to contest the factual findings and recommendations of the Investigating Judge and the Acting Court Administrator.

With respect to respondent Tiongson, as already observed, in his comment he made a sweeping general denial of the charge, and flaccidly attempted to get himself off the hook by in turn accusing complainant of trying to bribe him and exacting vengeance. These feeble endeavors at self-exculpation are unavailing in the face of the positive and categorical assertion of complainant that respondents did in fact extract money from him upon the promise of a favorable judgment.

As found by Judge Bayhon and Acting Court Administrator Suarez, respondents' acts constitute grave misconduct. Not only are respondents guilty of conduct prejudicial to the administration of justice, their actions also tended to engender the public misperception that decisions can be bought by those who are willing and able to pay the price therefor. They made a mockery of the principle enshrined in our fundamental law that a public office is a public trust. It is a much-repeated doctrine often underscored by this Court that public officers and employees are duty bound to serve with the highest degree of responsibility, integrity, loyalty and efficiency. They shall at all times remain accountable to the people.

As held by this Court in *Caña vs. Santos*,^[8] "(p)ersons involved in the administration of justice ought to live up to the strictest standard of honesty and integrity in the public service. The conduct of every personnel connected with the courts, from the presiding judge to the lowliest clerk, should at all times be circumspect to preserve the integrity and dignity of our courts of justice." Respondents are court employees, required to conduct themselves

with propriety and decorum, in order that their actions will be beyond suspicion. In this case, they simply failed to comply with the strict and rigorous standards required of all public officers and employees.

Time and again, we have reminded all concerned that those "involved in the administration of justice x x x must live up to the strictest standard of honesty and integrity in the public service. Their conduct, therefore, must, at all times, not only be characterized with propriety and decorum but above all else must be above suspicion." [9]

This Court will not accept the resignations filed by respondents because such acceptance would render this administrative case against them moot and academic. [10] Obviously, the resignations were submitted for the purpose precisely of evading the adverse effects of any penalty that this Court may impose upon them for their wrongdoings. This cannot be permitted by this Court.

WHEREFORE, premises considered, respondents Nicolas Tiongson and Elizur "Sol" Conti are hereby DISMISSED from service effective immediately, with FORFEITURE of all retirement benefits and accrued leave credits and with prejudice to re-employment in any branch or instrumentality of government, including government-owned or controlled corporations. Let a copy of this Decision be appended to the respondents' 201 files.

SO ORDERED.

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

[1] Rollo, pp. 2-4.

[2] Rollo, p. 5.

[3] Rollo, pp. 12-13.

[4] Rollo, p. 16.

[5] Rollo, p. 17.

[6] Now the Bar Confidant.

[7] Rollo, p. 22.

[8] 234 SCRA 17, 23, July 8, 1994.

[9] Bagano vs. Paninsoro, 246 SCRA 146, 149, July 14, 1995, citing Mejia vs. Pamaran, 160 SCRA 457, 477, April 15, 1988, Young vs. Momblan, 205 SCRA 33, January 9, 1992, and Llanes vs. Borja, 192 SCRA 288, December 10, 1990.

[10] Pardo vs. Cunanan, 248 SCRA 1, 4, September 1, 1995, citing the cases of Reconose vs. Tumulak, 70 SCRA 458, April 30, 1976 and Vda. de Recario vs. Aquino, 61 SCRA 144, November 22, 1974.

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