

ESTELITA PADRONES, COMPLAINANT, VS. MELCHOR DIVINAGRACIA, RESPONDENT.

Adm. Matter No. P-89-348. April 08, 1991

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PER CURIAM:

These consolidated cases refer to three complaints filed with the Court Administrator against Melchor Divinagracia, Aide at the Office of the Clerk of Court, of the Regional Trial Court, Iloilo City.

On August 3, 1989 Estelita Padrones, wife of an accused in certain criminal cases pending in the above Regional Trial Court, wrote Ricardo Ilarde, Executive Judge thereof, accusing Mr. Divinagracia of collecting the total sum of P6,750.00 from her, allegedly in payment for a surety bond for the provisional release of her husband, but which he allegedly converted for his personal use.

In his answer, Divinagracia did not deny having received the above amount from the complainant, but insisted that he sought merely to assist her. He also claims that he has returned P1,300.00.

Not too long later, or on August 11, 1989, Esperanza Divinagracia wrote Judge Ilarde, alleging that Mr. Divinagracia collected from her the sum of P1,300.00, allegedly as "grease money" for the prosecutor, in order to expedite certain pending criminal proceedings involving the death of her brother.

In his answer, the respondent claimed that the complainant had voluntarily given him money for expenses in following up the case, and that he volunteered assistance because they were blood relatives.

As a result of the twin complaints, Judge Ilarde commenced an investigation. The same was heard on June 19, 1990, in which Padrones and Joshua Alim, a radio announcer, presented evidence and marked the affidavits of Mary Ann Castro, Herminia Capagal, and Roque Berdugo, the respondent's co-employees at the Iloilo Clerk of Court's office. The respondent, on the other hand, presented an affidavit of desistance allegedly executed by Padrones.

Judge Ilarde later submitted his findings and found that the respondent had first approached Padrones at the time her husband was turned over to the Regional Trial Court, and asked money allegedly for documentary stamps required for the bail bond, in the sum of P500.00. Subsequently, he collected a total of P850.00 more, allegedly for "raffle" and other expenses. He also received the total of P5,400.00 more, in payment to a certain Atty. Marañon to have the recommended bail allegedly reduced, for a grand total of P6,750.00.

Judge Ilarde further reported that on February 3, 1989, Padrones made inquiries from the respondent concerning the bail and the release of her husband. The respondent reportedly replied that he was sick and had spent all her money for medicine, but promised to return it.

Judge Ilarde likewise found that the respondent had met Divinagracia by chance at the capitol building, as the latter was following up the case with the provincial prosecutor, who had issued a resolution recommending the filing of an information. The complainant was worried why no warrant of arrest had been issued, and forthwith, the respondent volunteered to make a personal inquiry with the prosecutor. Meanwhile, the latter asked a total of

P300.00 from her, allegedly for his expenses. A week later, he collected P800.00 more to enable him supposedly to expedite the case. Subsequently, he asked for P1,500.00, although the complainant could afford just P200.00. The sum was allegedly for the raffle of the case and the issuance of the appropriate warrant. By then, the complainant had given a total of P1,300.00.

According to Judge Ilarde, the complainant herself personally followed up the issuance of warrant in question and apparently had it in no time. The respondent himself later returned the money given to him.

On July 21, 1989, the complainant saw Herminia Capagal of the Clerk of Court's office, who disclosed that the respondent never gave her office any money and informed her that her office did not require payment of money.

On December 9, 1989, the respondent himself saw Capagal at the provincial capitol building, and in the words of Judge Ilarde, "pointing a finger and casting dagger looks at her," and uttered: "What is it that you are spreading around? You daughter of a whore, by and by I will kill you. Why are you testifying against me? If you don't desist testifying against me, we will have to kill each other!"

Apparently, the respondent's outburst was due to Capagal's participation in the investigation of the respondent, and cooperation with the complainants.

Judge Ilarde found Melchor Divinagracia guilty as charged, first, of two counts of dishonesty (for collecting money from Padrones and Divinagracia), second, of grave misconduct (for confronting Capagal). He recommended the penalty of six months suspension without pay and reprimand.

On September 18, 1990, Deputy Administrator Juanito Bernad[*] submitted his findings confirming Judge Ilarde's findings. He demurred, however, as to the penalty, and submitted that six months suspension without pay "is not commensurate with the gravity of the offenses."

The records establish the fact that on the occasions above-mentioned, Melchor Divinagracia did approach Estelita Padrones and Esperanza Divinagracia, purportedly, to assist them: as to Padrones, to enable her to post bail for her detained husband, and as to Divinagracia, to expedite her case pending with the office of the provincial prosecutor. In both cases, however, all the respondent did was to milk, in a manner of speaking, the two for money which, in the first place, neither were required to pay as a legal obligation to him or to the proper authorities, and in the second place, were not in fact paid to persons whom he represented he was paying (for the bail bond and alleged raffling of the case with respect to Padrones, and for alleged grease money to the prosecutor handling the case, with respect to Divinagracia). The records show on the other hand that the respondent pocketed the amounts he collected, although he made full restitution later.

It is one of the acts constituting estafa, to falsely pretend "to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions..."[1] and so also, to pretend "to have bribed any Government employee..."[2] By professing to have influence and "connections" in the courts the respondent succeeded in collecting the sum of P6,750.00 from Padrones and P1,300.00 from Divinagracia. This is estafa and at the very least, dishonesty.

Although the respondent restored the money subsequently, restitution will not mitigate administrative liability because by his brazen conduct, he had consummated an act that by itself is a disservice to the administration of justice and an affront to image of the courts before the public.

Worse, he sought to obstruct the very investigation being conducted by Judge Ilarde by harassing Herminia Capagal and heaping reproaches on her for cooperating in that investigation. This is not only grave misconduct on his part but also indicates his lack of remorse for what he had done to his two victims.

We agree with the Office of the Court Administrator that six months suspension is too lenient amid the gravity of the offenses charged. It may be true that the respondent has been in the service for eighteen years, he has blemished his record irreparably and in the circumstances, we believe that dismissal is warranted.

WHEREFORE, Melchor Divinagracia is hereby found guilty of two (2) counts of dishonesty and one (1) count of grave misconduct, and is hereby DISMISSED from the service with forfeiture of all retirement benefits.

IT IS SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

[*] Meynardo Tiro, Court Administrator, Concurring.

[1] REV. PENAL CODE, art. 315, (2), pr. (a).

[2] Supra, par. (c).

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