

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. JUDGE AUGUSTO SUMILANG, INTERPRETER FELICIDAD MALLA, STENO-REPORTER EDELITA LAGMAY AND STENO-REPORTER NIEVA MERCADO, RESPONDENTS.

A.M. No. MTJ-94-989. April 18, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

With reluctance, the Court once again has to wield its power of imposing disciplinary measures on members of the Bench and employees of the judiciary for failure to live up to the obligations incident to their status as officers of the Court.

Respondents Judge Augusto Sumilang, Felicidad Malla, Edelita Lagmay and Nieva Mercado, court employees of the Metropolitan Trial Court of Pila, Laguna (hereinafter referred to as the lower court), were charged in a memorandum report by the Office of Court Administrator dated August 16, 1994,[1] for misappropriating funds deposited by the plaintiff in Civil Case No. 858, entitled “Spouses Entero Villarica and Felicidad Domingo v. Teodorico Dizon.” On October 5, 1994, this Court issued a resolution treating the aforesaid memorandum report as an administrative complaint which was docketed as Administrative Matter No. MTJ-94-989.[2]

In addition, a second complaint was lodged against Malla for removing judicial records outside the court premises.[3] This Court decided to include this matter in the original complaint earlier docketed as A.M. No. MTJ-94-989 in a resolution dated March 6, 1995.[4] The antecedent facts follow:

This case arose as an aftermath of an on-the-spot audit examination of the official cashbook and other documents of the lower court. It appears from the evidence that court interpreter Malla who was the officer-in-charge from July 1, 1992 to November 15, 1992, took a maternity leave for one (1) month (November 16, 1992 to December 15, 1992) and reassumed her position on December 16, 1992, until her resignation on August 31, 1993.

On September 1, 1993, Rebecca Avanzado assumed the position of officer in charge. It was during her tenure on August 8, 1994, that an on-the-spot audit examination was conducted by the Fiscal Audit Division of the Office of Court Administrator. In the course of the examination, several anomalous transactions were discovered. One involved a manager’s check deposited in the name of Teodorico Dizon in connection with Civil Case No. 858, wherein Entero Villarica, on August 7, 1992 during the tenure of Malla entrusted the amount of P240,000.00 to said respondent instead of handling it over to the Clerk of Court pursuant to Supreme Court Circular No. 13-92.[5]

When asked to explain where the P240,000.00 was, Malla, explained that she deposited it at the Sta Cruz, Laguna branch of the Philippine National Bank but she and Judge Sumilang later withdrew it allegedly under the belief that the defendant, Dizon, would demand the delivery of the money upon the termination of the case. Upon further questioning by the examining team, however, Malla admitted that she lent the amount of P87,000.00 to

steno-reporter Lagmay, P40,000.00 to steno-reporter Mercado, and P81,000.00 to Mrs. Sumilang, wife of Judge Sumilang. She spent P32,000.00 for the hospitalization of her husband and the remaining balance for personal purposes.[6]

Later on, she executed an affidavit stating that only Lagmay and Mercado borrowed P55,000.00 and P40,000.00, respectively. On the other hand, she used P100,000.00 for her personal needs.[7]

Upon learning that they were being implicated in the anomalous transaction, Lagmay executed an affidavit stating that the amount of P55,000.00 was from the personal account of Malla and not from the P240,000.00 amount deposited before the court and such loan has already been paid.[8] Mercado, on the other hand, claims that the amount of P40,000.00 was borrowed only two weeks before the audit took place, when Malla was no longer employed with the court.[9] Mrs. Sumilang, for her part, denied any involvement in any of the transactions.[10] After carefully studying the records of this case, the Court is convinced that respondents did commit acts prejudicial to the service for which they should be held accountable.

The evidence against Judge Sumilang adequately proves his gross negligence in this matter. In his proffered explanation, he averred that his wife did not borrow any money from Malla and that he had no knowledge of the irregularities involving members of his own staff.[11] It bears emphasizing that this is not the first time that respondent judge has been charged with an administrative case. In *Arviso v. Sumilang*, [12] this Court found him guilty of gross negligence and ordered him to pay a fine of P3,000.00 for his failure to act on a motion to dismiss in an expeditious manner.

A judge must always remember that as the administrator of his court, he is responsible for the conduct and management thereof. He has the duty to supervise his court personnel to ensure prompt and efficient dispatch of business in his court.[13] The ignorance of respondent Judge as to the irregularities occurring in his own backyard constitutes serious breach of judicial ethics.[14]

Judge Sumilang's excuse, that upon learning of the irregularities being committed by his court personnel, he immediately acted with haste and instructed Malla to turn over the money,[15] is specious and unconvincing. His admission that he had no knowledge regarding the anomalies going on in his court underscores his inefficiency and incompetence. It clearly demonstrates a lack of control expected of a judge exercising proper office management.

The evidence against Malla is equally incriminating. It has been clearly established, and this is not denied by Malla,[16] that she misappropriated for her own use the amount of P240,000.00 which she received from Villarica, the plaintiff in Civil Case No. 858, instead of directing him to deposit said amount with the Municipal Treasurer. A court interpreter should not receive payments made by litigants in relation to their cases in his personal charge.[17]

In her defense, Malla testified that her uncle Entero Villarica allowed her to use the money on the condition that she should be ready to produce it when necessary.[18] Malla, however, never presented Villarica as her witness to bolster her claim which, therefore, has no evidentiary value for being self-serving. Besides, there is a disputable presumption that evidence wilfully suppressed would be adverse if produced during trial.[19]

Malla further claims that her constitutional rights under Section 12, Article III of the Constitution [20] were violated when she was "pressured" to sign an affidavit dated September 14, 1994 before the Office of the Court Administrator, where she admitted her misdeed.[21] Thus, she concludes that the affidavit is inadmissible in evidence.

In *People v. Loveria*, [22] however, we ruled that the aforementioned constitutional provision may be invoked

only during “custodial investigation” or as in “custody investigation” which has been defined as “questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.”[23]The investigation is defined as an “investigation conducted by police authorities which will include investigation conducted by the Municipal Police, P.C. (now PNP) and the NBI and such other police agencies in our government.”[24] Thus, the Office of the Court Administrator can hardly be deemed to be the law enforcement authority contemplated in the constitutional provision. At any rate, Malla admitted during her testimony that she received the said check from Villarica covering the amount of P240,000.00 payable to Dizon. However, when she tried to deposit it with the Municipal Treasurer, the latter refused because there was no order from Judge Sumilang. Consequently, Villarica entrusted said check to her. It was at this juncture that she used the money for personal purposes.[25]

During the investigation, Malla repeated what she basically stated in her affidavit i.e., that she used a substantial amount of the P240,00.00 for her personal needs. This effectively refutes whatever pressure and coercion she claims was employed against her. By repeating her confession in open court, Malla thereby converted it into a judicial confession.[26]

During the investigation, Malla was charged with a second offense for keeping in her custody missing court records containing the technical description of a cadastral survey.

Malla never denied this charge,[27] but claimed that they were returned five hours after they were removed. We are not impressed with the remonstrance of Malla. It should be stressed that court employees are not allowed to take any court records, papers or documents outside the court premises.[28]

All these acts call for Malla’s dismissal, but this penalty cannot be enforced because she is no longer connected with the MTC of Pila, Laguna. Hence, the appropriate penalty that may be meted against her is the forfeiture of her accrued leave credits, with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations. This disciplinary action should serve as a reminder to all court personnel who yield to the temptation of using for their own personal interest funds entrusted to the court, that there is no place in the judiciary for those who cannot meet the exacting standards of judicial conduct and integrity. The fact that Malla returned the whole amount is of no moment because such act will not mitigate her liability.

Respondents Lagmay and Mercado, on the other hand, vehemently deny knowing that the money they borrowed was money held in trust by Malla.[29] This assertion contradicts the latter’s testimony as to the source of the money lent to the former.

Worth stressing is the well-entrenched principle that in administrative proceedings, such as the instant case, the quantum of proof necessary for a finding of guilt is only substantial evidence.[30] Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[31]

The only evidence presented before this Court are the affidavits of Malla, Lagmay and Mercado. Firmly established is the rule that testimonial evidence carries more weight than affidavits.[32]

On this point, the investigating Justice,[33] reported:

“In the instant case, both Mercado and Lagmay are residents of Pila, Laguna, like Malla. All of them were employed with the Municipal Trial Court of Pila, Laguna, Mercado and Lagmay as stenographic reporters and Malla as court interpreter and, for a time, as officer-in-charge of the Office of the Clerk of Court. Moreover, being stenographic reporters in the same court where Malla was the court interpreter, the deposit by Villarica of the amount of P240,000.00 could not have been unknown to Mercado and Lagmay. It is not every day that such a huge amount is deposited with a mere Municipal Trial Court of a town in the province.

Indeed, Lagmay even admitted, when she testified during the investigation, that she was aware of the deposit of the said amount with the Court as ordered by it. Lagmay admitted when she testified that Malla was receiving only a monthly salary of P5,000.00. The three (3) failed to adduce competent evidence sufficient to prove any other sources of income of Malla except her salary as an employee of the government. Although Malla, Mercado and Lagmay claimed that Malla's husband was an agricultural tenant of a five-hectare parcel of land and a real estate broker and that Malla was the owner of a restaurant managed by her sister, however, they relied solely on their testimonies to buttress their claim. Malla failed to adduce in evidence any business or Mayor's permit to prove that she was the owner and operator of a restaurant and any documentary evidence to prove that her husband was engaged in real estate or that her husband was an agricultural tenant and his income from said business or occupation. On the other hand, when she testified during the investigation, Malla admitted that she used P200,000.00 from the P240,000.00 deposit (T.S.N., Malla, Page 96, April 21, 1995) for the expansion of her restaurant. In fine, Malla was in dire need of money. If Malla had other sources of income other than her salary as a government employee, it would not have been necessary for her to use part of the deposit with the RCBC. Neither Lagmay nor Malla adduced any evidence to prove that Malla was granted a loan by the Luzon Development Bank, in March, 1994, in the gargantuan amount of P600,000.00."

In situations such as the one at hand, the matter of assigning values to the testimony of witnesses is best performed by the investigating body because, unlike appellate courts, they can weigh such testimony in light of the demeanor, conduct and attitude of the witnesses at the trial.[34] This rule, however, must be relaxed when certain facts of substance and value have been overlooked which, if considered, might affect the result of the matter.[35] Unfortunately for respondents, no such omission is present here.

We need not belabor jurisprudence that those involved in the administration of justice must live up to the strictest standard of honesty and integrity in the public service. Their conduct must at all times, not only be characterized with propriety and decorum but above all must be above suspicion.[36] For the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women thereat, from the judge to the least and lowest of its personnel.[37]

By the very nature of the amount involved and considering that Malla was only receiving a salary of P5,000.00 a month with no other source of income, the conduct of the employees involved cast suspicion and tended to diminish the faith of the people in the judiciary.

In resolving this case, this Court emphasizes the Constitutional tenet that "(p)ublic office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with outmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives."[38]

WHEREFORE, respondent Judge Augusto Sumilang is hereby found guilty of gross negligence in the management of his court and ordered to pay a FINE of P20,000.00.

Respondent Felicidad Malla is found guilty of misappropriating funds deposited to the court by the plaintiff in Civil Case No. 858 and infidelity in the custody of court records. The Court, therefore, imposes the penalty of FORFEITURE of all retirement benefits and accrued leave credits and with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations, considering that dismissal is no longer feasible in view of her separation from the service.

Respondents Edelita Lagmay and Nieva Mercado are likewise found guilty of conduct prejudicial to the best interest of the service, and are hereby ordered to pay a FINE of P3,000.00 each, with a stern warning that commission of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.

Regalado (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1]Rollo, pp. 18-20.

[2]Ibid., p. 39.

[3] 2nd Rollo, p. 7.

[4] Ibid.,p. 15.

[5] Circular No. 13-92. “xxx xxx xxx

Conformably herewith, Circular No. 5, dated November 25, 1982, is hereby revoked and declared of no further force or effect. The following procedure is therefore prescribed in the administration of Court Fiduciary Funds:

Guidelines in Making Deposits

1) Deposits shall be made under a savings account. Current account can also be maintained provided that it is on an automatic transfer of current account from savings.

2) Deposits shall be made in the name of the Court.

3) The Clerk of Court shall be custodian of the Passbook to be issued by the depository bank and shall advise the Executive Judge of the bank’s name, branch and savings/current account number.

Guidelines in Making Withdrawals

1) Withdrawal slips shall be signed by the Executive Judge and countersigned by the Clerk of Court.

2) If maintaining a current account, withdrawals shall be made by checks. Signatories on the check shall likewise be the Executive Judge and the Clerk of Court.

All collections from bailbonds, rental deposits and other fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. x x x.”

[6] Ibid., p. 19.

[7] Id., p. 1-2.

[8] Rollo, p. 52.

[9] Rollo, p. 55.

[10] Rollo, p. 44.

[11] Rollo, pp. 44-45,

[12] 241 SCRA 577 (1995).

[13] Rule 3.08, CSC.

[14]Buenaventura v. Benedicto, 38 SCRA 71 (1971); Rodriguez v. Barro, 84 SCRA 663 (1978); Bendesula v. Laya, 58 SCRA 16 (1974); Celino v. Abrogar, 245 SCRA 309 (1995); Estoya v. Abraham-Singson, 237 SCRA 1 (1994).

[15] Rollo, p. 287.

[16]Ibid., pp. 1-2

[17]Prieto v. Cariaga, 242 SCRA 315 (1995).

[18] Rollo, pp. 278-282.

[19] Sec. 3, Rule 131, Rules of Court.

[20] Sec. 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

[21] Rollo, pp. 271-277.

[22]187 SCRA 47 (1990).

[23] Miranda v. Arizona, 384 U.S. 436.

[24] Bernas, The Constitution of the Republic of the Philippines, A Commentary, 1987, First Edition, pp. 343-349; People v. Ayson, 175 SCRA 216 (1989).

[25]TSN, April 21, 1995, pp. 62-66, 92-93.

[26] People v. Balisteros, 237 SCRA 499 (1994).

[27]Rollo, p. 291.

[28] Fabiculana v. Gadon, 239 SCRA 542 (1994).

[29] Rollo, pp. 52 and 55.

[30] Tolentino v. Court of Appeals, 150 SCRA 26 (1987); Biak-na-Bato v. Tanco, 193 SCRA 323 (1991).

[31]Betguen v. Masangcay, 238 SCRA 475 (1994).

[32] People v. Matildo, 230 SCRA 635 (1994); People v. Pacola, 58 SCRA 370 (1974).

[33] Court of Appeals Associate Justice Romeo J. Callejo who submitted a report dated April 17, 1996 in compliance with the Court's resolution dated November 28, 1994.

[34]People v. Catalino, 22 SCRA 1091 (1968).

[35] People v. Caliling, 74 SCRA 285 (1976).

[36] Montemayor v. Callado, 107 SCRA 258 (1981).

[37]Conchita-Lim-Arce v. Alejandro S. Arce, Adm. Matter No. 89-312, January 4, 1992.

[38]Section 1, Article XI, 1987 Constitution.

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