

PEDRO PINEDA, PETITIONER, VS. MARIO A. HIZALAN, RESPONDENT.

A.C. No. P-242. May 28, 1975

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Under date of February 6, 1973, the Secretary of Justice rendered his decision on petitioner's administrative complaint of May 26, 1972 against respondent Mario A. Hizalan, deputy sheriff of Manila, affirming the clerk of court's findings of guilt against respondent and ordering that he be "hereby considered resigned from office effective immediately."

The Secretary's decision found respondent guilty of the following charges:

"1. Failure to pay just debts in that respondent refused and failed, despite repeated demands, to pay the monthly rentals of P130.00 from January 1972 to April 1972 of a room in an apartment owned by complainant located at 1761-B corner Archimedes & Dumos Sts., Makati, Rizal; and

"2. Conduct unbecoming a public officer in that 'as a result of the failure to pay the rent as aforementioned, complainant filed an ejectment case against the respondent at Makati, Rizal, as Pec. Civil Case No. 9905, February 28, 1972. Respondent appeared by counsel only once to request an extension of time to answer, thereafter, never appeared in court although served with summons; that on April 30, 1972, before execution could be served against the respondent, respondent left the apartment house without notifying the complainant and neither communicating with said complainant his whereabouts, purposely to abscond from the service of the writ of execution, and to pay the judgment debt of almost P660.00.'"

Respondent filed his motion for reconsideration of March 22, 1973 with the Secretary, which was referred to this Court upon its assumption of administrative supervision and discipline over all courts and personnel thereof under the 1973 Constitution.

Respondent's motion is meritorious.

Respondent from the beginning admitted his failure to pay his just debt to complainant (P660.00 representing 3-1/2 months back rents) but made it plain that it was not due to any willful or malicious act or omission on his part but "due to financial difficulties arising from the successive illnesses of his (three) children which necessitated medical attention and expenses" and he chose to attend to the more pressing and urgent obligation and expenses of providing for the medical case and needs of his children.

As to the second charge of unbecoming conduct (which partakes more of a split of the first charge), respondent satisfactorily explained that he had left the room rented by him not surreptitiously but in the presence and with the knowledge of complainant's daughter and that he left the premises "so as not to increase further his obligation to the complainant which will make it more difficult for him to settle." In point of fact, complainant himself, realizing respondent's plight, entered into an amicable settlement with respondent in the very same month of February, 1973 and received in pursuance thereof the sum of P360.00 on account from respondent, notwithstanding that he had then secured a writ of execution for the whole amount due him.

Considering the foregoing and that under Civil Service Commission Memorandum Circular No. 8, series 1970; which categorizes administrative offenses and provides a schedule of penalties, the administrative offense of willful failure to pay a just debt is classified as a light offense calling for an imposable maximum penalty of suspension for thirty (30) days without pay (whereas respondent has now been laid off from the service for over two years, although his position was not filled pending resolution of his motion for reconsideration), the Court hereby reconsiders the penalty imposed on him from that of forced resignation to thirty (30) days suspension without pay with warning; and the remainder of the period of over two (2) years that he has been separated from the service shall be considered as excused absence without pay. Respondent shall be accepted back in his position of deputy sheriff of Manila effective upon his presentation of the required medical clearance.

ACCORDINGLY, the decision of February 6, 1973 is hereby reconsidered and set aside and respondent shall be reinstated to his position of deputy sheriff of Manila without back pay conditioned upon his passing the required medical examination and presentation of the corresponding medical clearance.

Makalintal, C.J., Castro, Fernando, Barredo, Makasiar, Antonio, Esguerra, Muñoz Palma, Aquino, Concepcion, Jr. and Martin, JJ., concur.

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