

CESAR M. SOTERO, COMPLAINANT, VS. ATTY. GREGORIO BAUTISTA, RESPONDENT.

A.M. No. P-226. July 29, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

In a verified letter-complaint, dated September 11, 1973, addressed to the NBI Sub-Office in Tarlac, Tarlac, Cesar M. Sotero, a Tarlac Assistant Provincial Fiscal, complained that Atty. Gregorio Bautista, Deputy Clerk of Branch IV, Court of First Instance of Paniqui, Tarlac, committed acts unbecoming an officer of the court and derogatory to the public service, when, on September 10, 1973, between 1:30 and 2:00 o'clock in the afternoon, said respondent, evidently under the influence of liquor and for no reason at all, uttered defamatory statements against him and his wife, Marjorie R. Sotero, a subordinate employee in the same court.

Accordingly, the Tarlac NBI Sub-Office conducted an investigation of the complaint; filed the corresponding criminal case for grave slander in the Municipal Court of Paniqui, Tarlac, docketed therein as Criminal Case No. 2314; and referred the administrative aspect of the case to this Court for corresponding action.

Answering the complaint, respondent denied all the charges against him. However, he admitted that "in the interest of truth, x x I drink occasionally but I do not report for work under the influence of liquor in the manner I am pictured to have been doing so in the report. I remember of three occasions only between August 16, 1971 which is the date of the effectivity of my appointment herein and September 11, 1973 wherein I was a little bit drunk in going to the office, and all of these took place after lunch time -- the reason being that I failed to resist the tempting offers for drink by the company with whom I was then with (sic) in taking my lunch on these occasions."

By Resolution of this Court's First Division, dated August 25, 1976, this case was referred to the Executive Judge of the Court of First Instance of Tarlac for investigation, report and recommendation.

The Investigating Judge recommended "that Administrative Matter No. P-226 be dismissed, the case considered closed and the respondent exonerated." Evidently, the recommendation of the Investigating Judge was anchored on the failure of complainant and his wife to appear, despite notice, at the investigation of the case on October 7, 1976, and on the affidavit of desistance filed earlier by Assistant Provincial Fiscal Sotero in behalf of his wife.

(WE cannot subscribe to the aforesaid recommendation for exoneration of the respondent.

Evidence which are documentary in character appearing in the records of this case reveal that indeed respondent misbehaved. A certification, dated September 12, 1973, issued by the chief of police of Paniqui, Tarlac, shows that in the police blotter of September 9, 1973 "at around 2:30 PM Atty. Gregorio Bautista, Deputy Clerk of Court at CFI, Branch IV, Paniqui, Tarlac created a public disorder at the Office of the Municipal Secretary while under the influence of liquor."

Then, when respondent was summoned to appear in the Office of the National Bureau of Investigation, Tarlac,

Tarlac, to explain his side in connection with the complaint of Assistant Provincial Fiscal Cesar Sotero, Senior NBI Agent Cesar B. de Leon reported: "It is noteworthy to mention in this connection that Subject (respondent) was afforded a chance to defend himself. However, instead of complying with the NBI summons addressed to him, he appeared in the Office disgracefully drunk and was not at all in a physical state to explain."

The foregoing documentary proofs, which remain unrebutted, coupled with respondent's admission that on "three occasions only between August 16, 1971 which is the date of the effectivity of my appointment herein and September 11, 1973 wherein I was a little bit drunk in going to the office and all of these took place after lunch time -- the reason being that I failed to resist the tempting offers for drink by the company with whom I was then with (sic) in taking my lunch on these occasions," unerringly reveal that indeed respondent misbehaved. There is, therefore, reasonable ground to believe that he is guilty of conduct prejudicial to the best interest of the service and unbecoming an officer of the court) (The affidavit of desistance executed by the wife of complainant, Marjorie R. Sotero, on October 7, 1976, which was submitted by the respondent for the purpose of dismissing this administrative case, becomes immaterial to this case. To condition administrative action upon the will of every complainant, who may, for one reason or another, condone a detestable act, is to strip the proper authorities of their power to discipline persons in the public service. More so, if WE consider that administrative offenses affect not only rights of private individuals but also those of the public, and where, as in the instant case, the charge can be proved by other evidence independent of the stand of the complainant and his wife) (Apropos to state, in this connection, is the fact that respondent's position as branch clerk of court calls for constant contact with the public, and naturally any indecorous or censurable act such as drunkenness during office hours adversely affects public opinion concerning the courts as a whole. Respondent is duty bound to maintain a high degree of respectability at all times. Such is the norm of conduct impose as a condition of employment in the government service.)

WHEREFORE, RESPONDENT ATTY. GREGORIO BAUTISTA, DEPUTY CLERK OF BRANCH IV OF THE COURT OF FIRST INSTANCE OF PANIQUI, TARLAC, IS HEREBY DIRECTED TO PAY A FINE EQUIVALENT TO TWO (2) MONTHS SALARY WITH A STERN WARNING THAT THE COMMISSION OF THE SAME OR SIMILAR OFFENSE WILL BE DEALT WITH MORE SEVERELY AND DRASTICALLY.

LET A COPY OF THIS DECISION BE ENTERED IN RESPONDENT'S PERSONAL RECORD.

Teehankee, (Chairman), Muñoz Palma, Martin, Fernandez, and Guerrero, JJ., concur.

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