

**AURORA B. GO, COMPLAINANT, VS. TERESITA C. REMOTIGUE,
CLERK OF COURT, MUNICIPAL TRIAL COURT IN CITIES-OCC, CEBU
CITY, RESPONDENT.***A.M. NO. P-05-1969. June 12, 2008*

Ponente: AZCUNA, J.

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This is an administrative complaint filed by complainant Aurora B. Go against respondent Teresita C. Remotigue, Clerk of Court in the Municipal Trial Court in Cities, Cebu City for Conduct Unbecoming a Court Employee.

In her complaint dated September 13, 2004, complainant alleged that on February 26, 2003, complainant and respondent entered into an agreement to engage in the lending business with the court personnel of Cebu City as their prospective clients. This agreement was formalized by virtue of a Trust Agreement dated June 10, 2003[1] wherein complainant agreed to contribute P150,000 as capital to be used for lending money with a stipulation that the 10% monthly interest earned on the loans would be divided equally between them. However, respondent ceased to remit complainant's 50% share from the interest collected from clients. Thus, in July 2003, complainant signified her intention to terminate their business partnership and requested respondent to return the amount of the capital with the interest thereon. Respondent failed to comply despite verbal and written demands, the last of which was a handwritten letter dated May 12, 2004[2] which demanded the return of her contribution with the corresponding interest within two weeks from notice thereof. According to complainant, in one of her conversations with respondent, the latter arrogantly told her in the Cebuano dialect, "Sige kiha nalang sa husgado. Og kita nalang ta sa husgado kon maka-sukot ka ba, labin nga dili ako mobayad sa imo." ("Go ahead, file a case in court. Let us see if you can get anything from me, the more I will not pay you.") Complainant got worried that respondent might not settle her just claim as the latter even bragged about her influence and connection with the courts in Cebu City.

In her Comment dated December 10, 2004, respondent admitted that she and complainant had entered into a lending agreement in the lending business of her cousin, Conchita Pepito of Leyte, but denied that the same was particularly for the court personnel of Cebu City. Respondent pointed out that complainant proposed to her the lending business which would have the court employees of Cebu as clients, but knowing that it would be improper, she declined and instead, proposed that they join the lending business owned by her cousin, Conchita Pepito. Respondent countered that she continued to remit the share of complainant until March 2004 and that she only ceased to remit the interests when complainant informed her about her desire to terminate their lending business. She appended in her Comment the 21 deposit/payment slips[3] of Bank of the Philippine Islands (BPI)[4] under her name and BPI Savings Account Number 2941-0008-89 evidencing her payment of complainant's share of the monthly interests and the P90,000 as partial refund of the principal amount of P150,000 while the outstanding amount cannot be returned yet as they were tied to long term loans. Contrary to complainant's claim, respondent said that complainant signified her intention to terminate their business relationship through verbal demands in February 2004, not in July 2003, as complainant needed funds to support

her campaign as municipal mayor of Calubian, Leyte in the 2004 elections. Respondent claimed that she did not make an assurance that the capital contribution by the complainant would be returned immediately upon termination of their undertaking and as a consequence, she ceased granting loans to clients. She asserted that the lending business was a private undertaking and not confined to court employees in Cebu City and that she never used her position in the court to facilitate the lending business.

In its Report dated January 24, 2005, the Office of the Court Administrator (OCA) recommended that the case be redocketed as a regular administrative matter and that respondent be suspended from office for a period of one (1) month without pay for violation of Administrative Circular No. 5. The OCA found that per the Trust Agreement and her own admission, respondent was engaged in the business of lending, with the complainant providing the capital, and, thus, violated Administrative Circular No. 5 (Re: Prohibition for All Officials and Employees of the Judiciary to Work as Insurance Agents), dated October 4, 1988, which prohibits all officials and employees of the judiciary from engaging directly in any private business, vocation or profession. The OCA made no distinction whether respondent's business caters to court personnel in particular or that she utilizes her time outside of office hours to pursue her business. It emphasized that the public trust character of the office proscribes her from engaging in any private activity.

The recommendation of the OCA is well-taken. The Trust Agreement, signed by both parties and their instrumental witnesses and duly notarized by a notary public, serves as the repository of the terms and conditions of what complainant and respondent have agreed to be valid and binding between them and, therefore, constitutes the law between them. Under Article 1159 of the Civil Code, obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith. The Trust Agreement,[5] executed by the parties on June 10, 2003, clearly shows that both complainant and respondent expressly bound themselves, to the exclusion of other persons, to be partners in the lending business with the following stipulations:

TRUST AGREEMENT

This Trust Agreement made and entered into by and between:

AURORA B. GO, of legal age, Filipino, married, with residence and postal address at M/F Diez Bldg., corner Ramos and Ranudo Sts., Cebu City, hereinafter known as the First Party;

-- and --

TERESITA C. REMOTIGUE, also of legal, Filipino, with residence and postal address at No. 5, Naya Village, Tisa, Cebu City, hereinafter known as the SECOND PARTY, by virtue of this agreement:

- The First Party entrusts the sum of ONE HUNDRED FIFTY THOUSAND PESOS (P150,000.00) to the Second Party. The first P50,000.00 was entrusted by the First Party to the Second Party on February 26, 2003, while the second P50,000.00 was entrusted on April 2, 2003 and the third P50,000.00 was entrusted on June 9, 2003;
- The Second Party shall use the money entrusted for a lending business, which shall impose an interest of ten percent (10%) per month;
- Earned interest shall be shared equally between the First and the Second Parties;
- Interest earned every month shall be deposited by the Second Party to the account of the First Party with the Bank of the Philippines Islands identified as S/A No. 2941-0008-89 on or before the 15[th] day of every month;
- Every cash out for lending shall be withdrawn from the Bank of the Philippines Islands in the account of

Aurora B. Go under S/A No. 2945-0065-71;

- Any collection from the lending shall be deposited with the Bank of the Philippines Islands for the account of the First Party under S/A No. 2945-0065-71;

- Any cash available shall be rolled or applied for lending;

- The First Party shall, upon 30-day prior notice given to the Second Party, have the right to cease the lending operations;

- Upon being notified of the First Party's intent to stop the operations, the Second Party shall cease to shell out money for clients, though the operation shall continue as far as collection and enforcement of the loan are concerned;

- The Second Party shall have the right to withdraw from the agreement provided that she shall have liquidated and accounted for amount entrusted to her and the supposed interest gained.

- Any agreement previously entered into by the parties are hereby superseded.

IN WITNESS WHEREOF, we have hereunto affix our signature this June 10, 2003, in the City of Cebu, Philippines.

(Sgd.) AURORA B. GO (Sgd.) TERESITA C. REMOTIGUE

First Party Second Party

CTC. No. 20725743 CTC No. 17007188

Issued on Feb. 3, 2003 Issued on Jan. 29, 2003

Issued in Manila Issued in Cebu City

Signed in Presence of:

(Sgd.) Rock-Allan Bastes (Sgd.) Bella Purita Aranas

ACKNOWLEDGEMENT

BEFORE ME, in the City of Cebu, Philippines, this June 10, 2003, personally appeared Aurora B. Go, First Party and Teresita C. Remotigue, Second Party, whose Community Tax Certificates are indicated below their names. Both of them are known to me to be the same persons who executed the foregoing document and they acknowledge that the same is their free act and voluntary deed.

WITNESS MY HAND AND NOTARIAL SEAL this June 10, 2003, in the City of Cebu, Philippines.

(Sgd.) RICO V. TAUTHO

Notary Public

Until December 31, 2004

PTR No. 814713-1-3-2003

IBP No. 555143-1-2-2003

Cebu City

Doc. No. 65;

Page No. 13;
Book No. XVII;
Series of 2003.

A perusal of the specific terms and conditions of the Trust Agreement shows, among others, that complainant, the "first party," entrusts to respondent, the "second party," the total amount of P150,000, staggered in three payments of P50,000 each (i.e., February 26, 2003, April 2, 2003, and June 9, 2003) to be used for their lending business; that respondent shall use the money entrusted to her for the purpose of their lending business; that the 10% monthly interest earned shall be shared equally between them; that respondent shall deposit complainant's share of the monthly interest with the BPI under Savings Account No. 2941-0008-89 on or before the 15[th] of every month; that the amount to be loaned by the borrower shall be withdrawn by respondent from BPI under Savings Account No. 2945-0065-71; and that respondent shall deposit with BPI under Savings Account No. 2945-0065-71, which is the account name of complainant, any amount collected from the loans. Nowhere is the number of respondent's cousin, Conchita Pepito, mentioned as a party to the said agreement or even joined as a second party together with respondent. This glaring fact belies the defense of respondent that the lending business was a partnership between complainant and her cousin, Conchita Pepito. Thus, in no uncertain terms can it be concluded that the lending business was purely the endeavor of both complainant and respondent. In this regard, the Court finds respondent guilty of violation of Administrative Circular No. 5 for engaging directly in the lending business with complainant.

Administrative Circular No. 5 states that:

In line with Section 12, Rule XVIII of the Revised Civil Service Rules, the Executive Department issued Memorandum Circular No. 17 dated September 4, 1986 authorizing heads of the government offices to grant their employees permission to "engage directly in private business, vocation or profession xxx outside office hours."

However, in its En Banc resolution dated October 1, 1987, denying the request of Atty. Froilan L. Valdez of the Office of Associate Justice Ameurfina Melencio-Herrera, to be commissioned as a Notary Public, the Court expressed the view that the provisions of Memorandum Circular No. 17 of the Executive Department are not applicable to officials or employees of the courts considering the express prohibition of the Rules of Court and the nature of their work which requires them to serve with highest degree of efficiency and responsibility, in order to maintain public confidence in the Judiciary. The same policy was adopted in Administrative Matter No. 88-6-002-SC, June 21, 1988, where the court denied the request of Ms. Esther C. Rabanal, Technical Assistant II, Leave Section, Office of Administrative Services of this Court, to work as an insurance agent after office hours including Saturdays, Sundays and holidays. Indeed, the entire time of Judiciary officials and employees must be devoted to government service to [ensure] efficiency and speedy administration of justice.

ACCORDINGLY, all officials and employees of the Judiciary are hereby enjoined from being commissioned as insurance agents or from engaging in any related activities and, to immediately desist therefrom if presently engaged thereat.

October 4, 1988.

(Sgd.) MARCELO B. FERNAN
Chief Justice

The avowed objective of Administrative Circular No. 5 is to ensure that the entire time of the officials and employees of the Judiciary be devoted to their official work to ensure the efficient and speedy administration of justice. Unlike that of the rest of the government workforce, the nature of work of the officials and employees of the courts requires them to serve with maximum efficiency and the highest degree of devotion to duty in order to

maintain public confidence in the Judiciary.[6] This is true even if the private business, vocation or profession would be undertaken outside the office hours.[7]

The Court, in a host of cases, has invariably imposed commensurate sanctions upon court employees for violation of Administrative Circular No. 5 depending on the gravity of the offense committed and, likewise, taking into consideration the personal records of the respondent employees as to prior administrative cases instituted against them. The Court reprimanded a stenographer for appearing as a representative of one of the complainants in a labor case before the National Labor Relations Commission;[8] imposed a fine of P1,000.00 upon a court aide who operated a sari-sari store in the court premises;[9] imposed a fine of P5,000 upon a process server of the Office of the Clerk of Court, Regional Trial Court, Balanga City, Bataan who facilitated the bail bond of an accused who had a pending case in one of the courts in the said city;[10] suspended a sheriff for one (1) month without pay as he "moonlighted" as the administrator/trustee of a market after office hours to augment his meager salary;[11] suspended for six (6) months without pay a court stenographer who engaged in a pyramiding business and solicited investments during office hours;[12] and dismissed from the service with forfeiture of all the benefits due a clerk for working as part-time sales agent of an appliance center and for other offenses, specifically, falsification of her daily time records and infliction of physical injuries upon therein complainant in a public place under scandalous circumstances.

Considering that the act of engaging in the lending business is the first offense of the respondent, who has rendered more that 26 years of government service, the penalty of suspension from office for a period of one (1) month without pay is appropriate in this case.

WHEREFORE, respondent TERESITA C. REMOTIGUE, Clerk of Court in the Municipal Trial Court in Cities, Cebu City, is hereby found GUILTY of violation of Administrative Circular No. 5, dated October 4, 1988, and SUSPENDED from office without pay for a period of one (1) month, with a STERN WARNING that a repetition of the same or similar acts will be dealt with more severely. Let this Decision be noted in the personal record of herein respondent.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Leonardo-De Castro, JJ., concur.

[1] Rollo, p. 5 (Annex A of the Complaint).

[2] Id., p. 7 (Annex B of the Complaint).

[3] The 21 deposit/payment slips represented the monthly interests due the complainant on various dates, to wit: 16 slips amounting to P2,500 each, two slips with P5,000 each, and one each amounting to P700 and P4,000, respectively, and a separate slip dated April 16, 2004 amounting to P90,000 which represented the partial payment of the principal amount.

[4] Rollo, pp. 13-15 (Annexes 1 to 1-S and Annex 2 of the Complaint).

[5] Id., pp. 5-6 (Annex A of the Complaint).

[6] *Concerned Citizen vs. Bautista*, Adm. Matter No. P-04-1876, August 31, 2004, 437 SCRA 234.

[7] *Biyaheros Mart Livelihood Association, Inc. vs. Cabusao, Jr.*, Adm. Matter No. P-93-811, June 2, 1994, 232 SCRA 707.

[8] Abeto vs. Garcesa, Adm. Matter No. P-88-269, December 29, 1995, 251 SCRA 539.

[9] Quiroz vs. Orfila, A.M. No. P-96-1210, May 7, 1997, 272 SCRA 324.

[10] Concerned Citizen vs. Bautista, Adm. Matter No. P-04-1876, August 31, 2004, 437 SCRA 234.

[11] Biyaheros Mart Livelihood Association, Inc. vs. Cabusao, Jr., Adm. Matter No. P-93-811, June 2, 1994, 232 SCRA 707.

[12] Gasulas vs. Maralit, A.M. No. P-90-416, August 25, 1994, 235 SCRA 585.

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