SHARON ROSE O. AGUSTIN, COMPLAINANT, VS. NOEMI S. MERCADO, COURT STENOGRAPHER, METROPOLITAN TRIAL COURT, BRANCH 8, MANILA, RESPONDENT.

A.M. NO. P-07-2340 (OCA-IPI NO. 06-2388-P). July 26, 2007

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PER CURIAM:

In a complaint filed before the Office of the Court Administrator (OCA), Sharon Rose Agustin charged Noemi Salonga Mercado, Court Stenographer, Metropolitan Trial Court of Manila, Branch 8, with Grave Misconduct, Non-Payment of Just Debt and Conduct Unbecoming a Court Personnel.

The facts as found by the OCA are as follows:

> Complainant narrated that as a Human Resource Officer of the Asia Central Employment Services, Inc. owned by Mr. Lauro M. Legaspi, she was entrusted by the latter to handle the legal transactions of the company. Since Mr. Legaspi has a criminal case pending before the MeTC, Branch 8, Manila, complainant would often go to the court to follow up the status of the same (case) until she met respondent Noemi S. Mercado, the court stenographer.
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> Mr. Legaspi failed to attend a scheduled hearing of the case because he underwent a triple by-pass surgery, and, as a consequence thereof, a warrant of arrest was issued against him by Judge Caroline Rivera-Colasito.
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> Sometime in June 2005, respondent arrived at their office and talked personally to Mr. Legaspi regarding the aforesaid warrant of arrest and the latter's (Mr. Legaspi) other cases pending before the Department of Labor and Employment (DOLE). When Mr. Legaspi asked respondent if she could help him settle his case pending before MeTC, Branch 8, Manila, the latter readily agreed and demanded from the former the amount of Ten Thousand Pesos (P10,000.00) allegedly as payment for his bail.
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> Complainant claimed that in July 2005, respondent returned to their office and handed to Mr. Legaspi a forder with a caption "Slight Physical Injury, Nabo vs. Legaspi". She uttered, "Sir, ayos na po ang kaso nyo katunayan po ito yong file na nagpapatunay na tapos na ang kaso". They were shocked when they found inside the folder the original copies of the records of the case.
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> A few days later, some policemen came to their office to serve the Warrant of Arrest against Mr. Legaspi, but the latter explained to the former that he is on bail and that the case against him has been terminated by the court. Besides, complainant was already in possession of the original copies of the documents of the subject criminal case.
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> Mr. Legaspi then asked respondent if she could help him find an insurance company because he is required to file a surety bond in connection with his labor cases still pending before the DOLE. Respondent told Mr. Legaspi to prepare the necessary documents and the money for the surety bond amounting to One Million Forty Five Thousand Two Hundred Sixty Four Pesos and Forty Three Centavos (P1,045,264.43). Likewise, respondent also informed Mr. Legaspi that the insurance company is demanding 12% of the amount of the bond and another 3% thereof as her (respondent's) processing fee. Respondent immediately demanded from Mr. Legaspi the amount of P31,357.93 representing 3% of P1,045,264.43. After a week, while Mr. Legaspi

> was confined in the hospital, complainant inquired from respondent about the insurance company. Thereafter, an agent of ZP Insurance Agency came to their office to collect the 12% of the amount of surety bond and issued a receipt for P104,000.00.
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> However, the DOLE informed Mr. Legaspi that it cannot accept the surety bond because the license of the insurance company to operate as such has already expired.
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> Since complainant and respondent became close friends, the former did not hesitate to allow respondent to stay in her house. They shared a room together and were happy together. But their happiness was shortlived as complainant stated to uncover the real motive of respondent. Respondent would borrow money from complainant without paying her in return. When respondent received a Notice of Ejectment against their ancestral house in Tondo, she borrowed money from complainant on the pretext that she will use the same in filing a case against her uncle. She also borrowed money for the tuition fees of her children. Likewise, respondent had stolen and pawned jewelries of complainant as evidenced by the pawnshop receipts and the identification card of the former which the latter recovered inside their room.
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> Finally, complainant claimed that respondent convinced her to engage in lending business in MeTC, Branch 8, Manila. To date, however, she has yet to recover the capital she invested in the aforesaid venture.[1]

On February 20, 2006, the OCA required respondent to file comment.[2] Meanwhile, in a Resolution dated March 29, 2006, the Court resolved to withhold the salaries and benefits of respondent for non-submission of her bundy cards since September 2005.[3]

Despite the directive of the OCA, respondent failed to file her comment. Hence, on June 5, 2006, the OCA warned respondent that failure to submit her comment, the complaint would be deemed submitted for resolution.[4]

On July 9, 2006, Judge Roslyn M. Rabara-Tria, Pairing Judge, Metropolitan Trial Court, Branch 8, Manila, informed the OCA that respondent had been absent without leave (AWOL) since December 16, 2005.[5]

In its Report dated January 8, 2007, the OCA noted that respondent no longer reported for work from the time she learned that an administrative case would be filed against her. She had been twice required to file comment but the registry receipts for both communications indicated that respondent had not received them. Apparently, she had moved out[6] of her given address hence the court processes could not be properly served on her. Accordingly, the OCA recommended that respondent be dismissed from service for cause, with forfeiture of all benefits except accrued leave credits, if any, and with prejudice to re-employment in the government or any of its subdivisions, instrumentalities, or agencies including government owned or controlled corporations.[7]

On February 12, 2007, we required the parties to manifest whether they are willing to submit the case for decision. Only complainant manifested her willingness to submit the case for resolution, while respondent's copy of the February 12, 2007 Resolution was returned unserved. In a Resolution dated June 6, 2007, we deemed the said Resolution duly served on the respondent.

We adopt the findings and recommendation of the OCA.

Respondent no longer reported for work upon learning that an administrative case would be filed against her. She has been on AWOL since December 16, 2005 and has successfully evaded service of the court processes by moving out of her given address. Nonetheless, these circumstances did not divest the Court of its jurisdiction or prevent its taking cognizance of the case or from imposing upon the respondent the proper penalty for her infractions.

As correctly observed by the OCA:

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> Respondent's AWOL status does not render the complaint against her moot and academic since the Court's jurisdiction over her has attached from the time of the filing of the complaint as there was no directive yet from the Court to declare her on AWOL, and is not lost by the mere fact that she never reported for work during the pendency of her case. To deprive the Court of authority to determine her innocence or guilt of the charges is fraught with injustice and pregnant with ridiculous implications. For what remedy would the people have against a civil servant who deliberately resorts to wrongful and illegal conduct and abandons his office and absconds afterwards knowing fully well that he would soon be beyond the pale of the law and immune from administrative penalties? As held in Perez v. Abiera, A.C. No. 223, June 11, 1975, 64 SCRA 302, 307 '[if] only for reasons of public policy, this Court must assert and maintain its jurisdiction over members of the judiciary and other officials under its supervision and control for acts performed in office which are inimical to the service and prejudicial to the interests of litigants and the general public. If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation.
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> Moreover, respondent's failure to file the required comment despite numerous directives from the OCA is due to the fact that she is on AWOL. She no longer reported for work from the time she learned an administrative case will be filed against her. It seems she is not at all interested in clearing her name. It is totally against human nature to just remain reticent in the face of accusations. Consequently, we are left with no alternative but to conclude that she impliedly admits the charges against her.
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> Finally, respondent's AWOL prejudiced public service. Time and again, this Court has pronounced that any act which falls short of the exacting standards for public office, especially on the part of those expected to preserve the image of the judiciary, shall not be countenanced. Public office is a public trust. Public officers must at all times be accountable to the people, serve them with utmost degree of responsibility, integrity, loyalty and efficiency. x x x[8]

Indeed, respondent's refusal to appear during the investigation, her being AWOL immediately after learning of the possible filing of the administrative case against her, and the fact that she moved out of her given address, are clear indicia of her guilt.[9]

There is no dispute that respondent met with and assured a party litigant of a favorable resolution of the case in exchange for a sum of money. She also retrieved the original records of the case from the court and brought it to the litigant. She likewise made representations that she could "settle" the litigant's pending cases with the DOLE and demanded money for her services. These acts undoubtedly constitute grave misconduct and should not be countenanced.

In Re: Affidavit of Frankie N. Calabines,[10] the Court declared that "employees of the court x x x have no business meeting with parties litigants or their representatives, let alone under such clandestine and nefarious circumstances as in this case, plainly to seek an exchange of a pretended decision for a sum of money. This Court cannot let such a brazen and outrageous betrayal of public trust go unsanctioned. x x x In performing their duties and responsibilities, court personnel serve as sentinels of justice and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it x x x Any conduct they exhibit tending to diminish the faith of the people in the judiciary will not be condoned." This ruling equally applies to the instant case.

Moreover, respondent's act of bringing the original records of the case outside the court premises was irregular. As a court stenographer, she is not the rightful custodian of the records. Moreover, court records are not allowed to be brought outside the court premises, much less entrusted to a party litigant. Otherwise, the integrity of the court records would be put into question.

Finally, complainant also alleged that respondent borrowed money from her to be used in filing a case and for paying for her children's tuition fees and that to date the amounts remained unpaid.

In Orasa v. Seva,[11] we held that:

> "Just debts," refer to (1) claims adjudicated by a court of law; or (2) claims the existence and justness of which are admitted by the debtor. "Willful failure to pay just debts," meanwhile, is a light offense which is punishable by reprimand for the first transgression.
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> x x x x
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> Having incurred a just debt, respondent had the moral duty and legal responsibility to settle it when it became due. Respondent should have also complied with the just contractual obligations, acted fairly and adhered to high ethical standards to preserve the court's integrity since he is an employee thereof. x x x
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> It is settled that court employees are expected to be models of fairness and honesty not only in their official conduct but also in their personal actuations, including business and commercial transactions. Thus, any act that would be a bane to the public trust and confidence reposed on the judiciary shall not be countenanced.
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> x x x x
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> Clearly, respondent's willful failure to pay her just debt is unbecoming of a public employee and a ground for disciplinary action against her. Her unethical conduct has diminished the honor and integrity of her office, stained the image of the judiciary and caused unnecessary interference directly or indirectly in the efficient and effective performance of her functions. Certainly, to preserve decency within the judiciary, court personnel must comply with just contractual obligations, act fairly and adhere to high ethical standards. Like all court personnel, respondent is expected to be a paragon of uprightness, fairness and honesty not only in all her official conduct but also in her personal actuations, including business and commercial transactions, so as to avoid becoming her court's albatross of infamy.

In the instant case, respondent chose to ignore the accusations against her by no longer reporting for work. She also moved out of her given address for the purpose of evading the service of the court processes. For her failure to file comment, she is deemed to have impliedly admitted the charges filed against her. As narrated by the complainant, respondent earned her trust and was able to demand and borrow money from her because of her alleged "connections" in the court. However, she absconded and never paid her obligations. This amounts to conduct unbecoming a court personnel.

Grave misconduct is a grave offense punishable by dismissal even if committed for the first time. Meeting with a party litigant, soliciting money in exchange for a favorable decision, and entrusting court records to a party litigant, are acts constituting grave misconduct while respondent's willful failure to pay just debts is conduct unbecoming a court personnel.

WHEREFORE, respondent Noemi Salonga Mercado, Court Stenographer, Metropolitan Trial Court of Manila, Branch 8, is found GUILTY OF GRAVE MISCONDUCT and CONDUCT UNBECOMING A COURT PERSONNEL and is meted the penalty of DISMISSAL, with prejudice to re-employment in any government office or branch or instrumentality, including government owned or controlled corporation, with forfeiture of all benefits, except for accrued leave credits.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr., and Nachura, JJ., concur.

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[1] Report of the Office of the Court Administrator, rollo, pp. 137-139.

[2] Rollo, p. 124.

[3] Id. at 134.

[4] Id. at 125.

[5] Id. at 135.

[6] Id. at 136.

[7] Id. at 141.

[8] Id. at 140-141.

[9] See Withholding of the Salary and Benefits of Michael A. Latiza, Court Aide, RTC-Br. 14, Cebu City, A.M. Nos. 03-3-179-RTC & 03-10-576-RTC, January 26, 2005, 449 SCRA 278, 281.

[10] A.M. No. 04-5-20-SC, March 14, 2007.

[11] A.M. No. P-03-1669, October 5, 2005, 472 SCRA 75, 83-84, 86.

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