

SOLEDAD V. GANADEN, COMPLAINANT, VS. GREGORIO N. BOLASCO, RESPONDENT.

A.M. No. P-124. May 16, 1975

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Respondent Gregorio N. Bolasco, Deputy Provincial Sheriff of the Court of First Instance of Zambales, Branch 1, Olongapo City, is charged by complainant, Soledad V. Ganaden, Stenographer of the same court, with:

- (1) Dishonesty by demanding P13.00 as sheriff's fee in civil case No. 711-0, entitled "Carmen Flores vs. Leonardo Frondarina," but issuing therefor a receipt for a lesser amount; and by issuing a private receipt for P50.00 to plaintiff Paulino Padua in Civil Case No. 427-0 for the service of a writ of execution but failed to make a return of said writ; and
- (2) Misconduct by delaying the service of summons upon Paulita Esteban, defendant in Civil Case No. 684-0, and entrusting its service to her nephew, Atty. Eduardo Balaoing, Jr..

Respondent denied the charges, stating among others:

"1. . . . [T]hat on February 3, 1971, Atty. Demetrio Leano entrusted the sum of P12.60 to the respondent for Sheriff's Fees of the summons in Civil Case No. 711-0 of this Court, entitled 'Carmen Flores, vs. Leonardo Frondarina, et al.'; however, when the summons was issued on February 4, 1971, it turned out that the Sheriff's Fees was only P4.20 considering that the defendants are husband and wife and that they reside at Olongapo City and not residents of San Felipe, Zambales as originally alleged by Atty. Demetrio Leano. Therefore, the sum of P8.40 was returned by the respondent to Atty. Demetrio Leano on February 10, 1971, together with the official receipt for the aforesaid Sheriff's fee. . . . Carmen Flores nor her counsel has never complained about the matter;

(2) . . . [T]hat complainant could have merely heard what the respondent said over the telephone in the Office of the Clerk of Court of the Court of First Instance in Olongapo City, when the latter was attempting to serve the summons and the complaint in Civil Case No. 684-0 of the Court of First Instance of Zambales, Branch I, Olongapo City, entitled 'Rosario vda. de Salcedo, vs. Paulita Esteban' to the defendant Paulita Esteban through her nephew, Atty. Eduardo Balaoing, since the defendant Paulita Esteban then was reportedly not in her residence and, per reliable information, said defendant was then in Manila. Truth to tell, neither the plaintiff Rosario Esteban vda. de Salcedo, nor her lawyer in said Civil Case No. 684-0 ever complained about the matter;

"3. . . . [T]hat respondent merely received the sum of P50.00 as a deposit and to accommodate Mr. Paulino Padua, plaintiff in Civil Case No. 427-0, of the Court of First Instance of Zambales, Branch I, Olongapo City, entitled 'Paulino Padua, et al., vs. Romeo Punzalan,' upon his (Padua's) own request in order to save him (Padua) time and expense which he will otherwise incur in coming back to the Office of the Provincial Sheriff at Olongapo City and in going to the Office of the Register of Deeds of Zambales at Iba, for the sole purpose of paying the necessary expenses for the service of the Writ of Execution issued in the aforementioned case such as the Registration of Levy, should there be properties levied upon, Guard Fees and other incidental

expenses since he (Padua) was and still is an employee at the U.S. Naval Base, Subic Bay, Philippines, who cannot easily leave his place of work for any appreciable period of time;

"4. That said sum of money has never been misappropriated nor misapplied by or for the benefit of the respondent; and the said Paulino Padua never complained about the matter; . . ."

During the formal investigation of this case, complainant admitted that she had no personal and/or direct knowledge of the charges and that she had no evidence to substantiate the same, claiming that her sole motive in filing the complaint is for the proper authority to find out the truth or falsity of respondent's alleged irregular activities.

The Investigating District Judge of the Court of First Instance of Zambales, in his investigation report dated March 24, 1973 recommended the dismissal of the complaint in view of complainant's admission that she had no direct and personal knowledge of respondent's irregular actuations and that the interested parties mentioned by her, allegedly complaining against respondent, failed to appear and support the charges.

The Investigating District Judge is in error.

The following facts are undisputed:

On two occasions, respondent received certain amounts in connection with the performance of his duties as deputy sheriff without issuing the corresponding official receipts therefor.

1. On February 3, 1971, counsel for plaintiff in civil case 711-0 gave respondent P12.60 for sheriffs fee for service of the complaint and summons thereof upon the defendants. Respondent received said amount before the summons to be served were delivered to him for service, in spite of the standing instruction from the clerk of court and the provincial sheriff not to accept any payment if no official receipts are available. Respondent did not issue the official receipt even after he had received on February 5 or 6, 1971, the booklet of official receipts; and
2. Respondent also received, again without issuing the corresponding official receipt, P50.00 from plaintiff for service of a writ of execution issued in connection with civil case 427-0. Proof of receipt of said amount is respondent's private receipt marked Exhibit B.

Respondent committed illegal exaction penalized by paragraph 2(b) of Article 213 of the Revised Penal Code for failure to issue receipts for money collected by him officially.

Respondent likewise violated Section 113 of Article III, Chapter V of the National Accounting and Auditing Manual, providing that no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof.

The acts and/or omissions of respondent are patent violation of law. They disturb the ethics of public life and vitiate the integrity of the court personnel as well as the court itself. Public service requires utmost integrity and strictest discipline. A public servant must exhibit at all times the highest sense of honesty and integrity. This yardstick has been imprinted in the New Constitution under Section I of Article XIII which stressed that "Public office is a public trust. Public officers and employees shall observe with the highest degree of responsibility, integrity, loyalty and efficiency and shall remain accountable to the people." Proclamation No. 1081 pointed out that all public officials and employees whether of the national or local government, must conduct themselves in the manner of the new and reformed society. Respondent's conduct is highly prejudicial to the interest of the service. It is classified as a grave offense under subparagraph A, paragraph III of Civil Service Memorandum Circular No. 8, series of 1970.

It is worthy to add, at this juncture, that Section 3 of Presidential Decree No. 6, promulgated on September 27,

1972, provides for the immediate removal or dismissal of a respondent under any of the following circumstances, among others, which is present in this case, namely: (a) when the charge is serious and the evidence of guilt is strong; and (b) when respondent is a recidivist or has been repeatedly charged, and there is reasonable ground to believe that he is guilty of the present charge.

Respondent's 201 file shows that he was repeatedly charged with delay in the service of summons and the execution of decisions as well as abuse of authority and ignorance in the execution of a writ of preliminary injunction.[1] WE also take note of a December 5, 1972 Department of Justice communication sent to respondent, with the information that the said Department holds in abeyance action on respondent's letter of resignation submitted pursuant to Letter of Instruction No. 14-A and awaits the outcome of this administrative case.

WE are inclined to believe that there was no undue delay in the service of summons upon defendant Paulita Esteban in Civil Case No. 684-0 as she was in Manila between December 10, 1970 and February 27, 1971. Although her maid was left in the house, there was no showing that she was a person of suitable discretion who could appreciate the importance of a summons. The charge that respondent entrusted the service of the said summons to defendant's nephew was not substantiated.

WHEREFORE, RESPONDENT IS HEREBY FOUND GUILTY OF DISHONESTY, OR CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE, AND IS ORDERED DISMISSED FROM THE SERVICE EFFECTIVE UPON RECEIPT HEREOF.

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

[1] a. Verified complaint dated May 27, 1964 by Feliciano Rodriguez charging delay of service of summons in Civil Case No. 30-0 upon defendant's request and dishonesty;

b. Verified complaint dated April 17, 1967 by Carmen Singson charging delay in the execution of the decision in Civil Case No. 492 ... referred to the Provincial Sheriff at Iba, Zambales for investigation;

c. Verified complaint dated May 7, 1969 by Macarias Andico charging abuse of authority and ignorance in the execution of a writ of preliminary mandatory injunction . . . case was docketed as Adm. Case No. 7-0, CFI Olongapo City and was set for hearing on September 9, 1969;

d. Unverified letter-complaint dated March 10, 1970 by Mariano Valerio charging delay in the execution of the decision in Civil Case No. 17-0 . . . comment of respondent that the writ had already been executed and forwarded to complainant.

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