

**MACRINA M. BISNAR, COMPLAINANT, VS. MYRLA P. NICANDRO,
COURT STENOGRAPHER, REGIONAL TRIAL COURT, BRANCH 217,
QUEZON CITY, RESPONDENT.**

A.M. NO. P-00-1427 (FORMERLY OCA IPI NO. 98-505-P). February 14, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a Complaint-Affidavit[1] dated August 11, 1998 of Macrina M. Bisnar (complainant) charging Myrla P. Nicandro (respondent), Court Stenographer, Regional Trial Court (RTC), Branch 217, Quezon City, with Willful Failure to Pay Just Debts.

Complainant alleges that: sometime in 1996, respondent requested for a loan from the complainant in the total amount of Fifty One Thousand Three Hundred Pesos (P51,300.00); to guarantee payment of said amount, respondent issued several postdated checks which, when presented for payment, all bounced due to account closed; despite request to pay, respondent failed and refused to pay; respondent's continued refusal to pay her debt prejudiced complainant and the same is grossly prejudicial to the best interest of the service as contained in No. 19 of Memorandum Circular No. 30, s. 1989 as well as Presidential Decree (P.D.) No. 807 and Republic Act (R.A.) No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees).

In its First Indorsement dated October 29, 1998,[2] the Office of the Court Administrator (OCA) required respondent to comment on the Complaint-Affidavit.

In the Agenda Report[3] dated August 7, 2000, the OCA submitted its evaluation and recommendation, to wit:

EVALUATION: Complainant had sufficiently established that respondent is indebted to her, but up to the time of the filing of the instant complaint it has not been paid. On the other hand, respondent chose to remain silent on the charge even after she was furnished with a copy of the complaint and was directed to file comment thereon. Respondent's deliberate refusal to refute the charge only means that the allegations are true and she cannot deny them.

A court personnel, being a public servant, must exhibit the highest sense of honesty and integrity, not only in the performance of her official duties but also in her personal and private dealings with other people, to preserve the court's good name and standing. Failing in this respect, respondent should be held liable.

Under the Revised Schedule of Penalties for Administrative Offenses, willful failure to pay just debt is punishable by a reprimand, for first offense; suspension for 1-30 days, for second offense; and dismissal for third.

RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court are the following recommendations:

- That the instant complaint be RE-DOCKETED as a regular administrative matter; and
- That respondent MYRLA P. NICANDRO, Court Stenographer, RTC, Branch 217, Quezon City, be held

LIABLE for Willful Failure to Pay Just Debt and she be meted a penalty of suspension for thirty (30) days without pay to be served immediately upon notice.

In its Resolution of September 20, 2000,[4] the Court resolved to docket the administrative complaint as a regular administrative matter and required the respondent to comment thereon.

The period within which to comply lapsed without respondent submitting her comment. The Court, in its Resolution[5] of March 27, 2001, required respondent to show cause why she should not be held in contempt for failure to comply with the Resolution of September 20, 2000. But still, the Court received no word from respondent. Thus, the Court, in its Resolution[6] of December 3, 2001, imposed upon respondent a fine of P1,000.00, or a penalty of imprisonment of five days, and required respondent to comply with the Resolution of March 27, 2001.

In her Motion for Reconsideration[7] dated January 23, 2002, respondent begs the indulgence of the Court to reconsider its Resolution and afford her the right to be heard considering that she did not receive the order for her to comment on the complaint filed against her, not to mention the fact that the instant case has already been the subject of an amicable settlement between the parties.

The Court, in its Resolution[8] of August 5, 2002, resolved to deny the Motion for Reconsideration of respondent for lack of merit and required her to comment on the Complaint-Affidavit.

Notwithstanding the Resolutions of the Court, respondent failed and still fails to submit her comment. Thus, the Court, in a Resolution of July 23, 2003, resolved to increase the fine to P2,000.00, or a penalty of imprisonment of 10 days, and required respondent to submit her comment.

On June 8, 2004, respondent paid the P2,000.00 fine[9] without complying with the Resolution of July 23, 2003 requiring her to submit her comment on the Complaint-Affidavit.

The Court, in its Resolution[10] of July 5, 2004, reiterated its Resolution of August 5, 2002 and required respondent to comply therewith with warning that should she fail to do so, this case shall be submitted for resolution without her comment.

For deliberate failure to comply, the Court, in its Resolution of October 11, 2006, deemed the case submitted for resolution without respondent's comment.

The Court agrees with the OCA that respondent should be held administratively liable for willful failure to pay just debts.

Section 46, Chapter 6 of Book V, Title I, Subtitle A (Civil Service Commission) of the Revised Administrative Code of 1987 (E.O. No. 292) provides that willful failure to pay just debts shall be a ground for disciplinary action.

As rightly evaluated by the OCA, respondent chose to remain silent on the charge; and her deliberate refusal to refute the charge only means that the allegations are true and she cannot deny them. And as borne by the records, respondent's averment that the present administrative case had already been the subject of an amicable settlement between the parties[11] is tantamount to an admission that she is indebted to the complainant.

Respondent's bare allegation that the case had been the subject of an amicable settlement between the parties will not exculpate her from liability. The loan was obtained in 1996 and until now, there is no concrete showing that it has been paid. And even if assuming the loan had been paid, it is a fact that she refused to pay the same for several years; and her liability for willful failure to pay just debts had already attached.

In *Bago v. Feraren*,^[12] the Court held that having incurred a just debt, it is respondent's moral duty and legal responsibility to settle it when it becomes due. She must comply with just contractual obligations, act fairly and adhere to high ethical standards to preserve the court's integrity since she is an employee thereof.^[13] Her refusal to give any explanation for her failure to pay complainant manifests her willful refusal to pay a just debt.^[14]

Section 22(1), Rule XIV of the Omnibus Rules Implementing Book V of E.O. No. 292 as amended by CSC Memorandum Circular No. 19, s.1999, provides that willful failure to pay just debts is classified as a light offense, punishable by reprimand for the first infraction, suspension for 1 to 30 days for the second transgression, and dismissal for the third offense.

Respondent cannot escape the fact that she did not meet the exacting standards required of a government employee, which warrants administrative sanction from this Court. It appearing that this is the first time that respondent has committed an offense of this nature, the penalty imposable upon her is reprimand.

However, we find respondent liable also for gross insubordination for not complying with the Court Resolutions requiring her to comment on the Complaint-Affidavit.

It should be borne in mind that a resolution of the Court requiring comment on an administrative complaint against officials and employees of the judiciary should not be construed as a mere request from the Court, nor should it be complied with partially, inadequately, or selectively.^[15] Moreover, the Court should not and will not tolerate future indifference of respondent to administrative complaint and resolutions requiring comment on such administrative complaint.^[16] Respondent's deliberate refusal to comply with the Resolutions of this Court evinces gross misconduct and insubordination.^[17]

In fine, respondent should also be held liable for gross insubordination for refusing to file her comment despite our repeated orders for her to do so. Refusal to comply with the orders of this Court constitutes gross insubordination that warrants disciplinary sanction for which she should be fined P5,000.00.^[18]

This Court reiterates its policy not to tolerate or condone any conduct, act, or omission that falls short of the exacting norms of public office, especially on the part of those expected to preserve the image of the judiciary.^[19] Thus, it will not shirk from its responsibility of imposing

ACCORDINGLY, respondent Myrla P. Nicandro, Court Stenographer, RTC, Branch 217, Quezon City is adjudged GUILTY of willful failure to pay just debt for which she is REPRIMANDED; and of gross insubordination for which she is ordered to pay a FINE of P5,000.00.

Respondent is likewise ordered to PAY complainant Macrina M. Bisnar the amount of P51,300.00 within 30 days from receipt of this Resolution.

Moreover, respondent is sternly warned that a commission of the same or similar acts in the future, including a violation of this Resolution, shall be dealt with more severely.

Let a copy of this Resolution be attached to the 201 file of respondent.

SO ORDERED.

Ynares-Santiago, (Chairperson), Callejo, Sr., and Chico-Nazario, JJ., concur.
Nachura, J., on leave.

[1] Rollo, p. 1.

[2] Id. at 7.

[3] Id. at 11-12.

[4] Id. at 13.

[5] Id. at 16.

[6] Id. at 17.

[7] Id. at 18-19.

[8] Id. at 20.

[9] Id. at 27.

[10] Id. at 28.

[11] Id. at 18.

[12] 457 Phil. 363 (2003).

[13] Id. at 365-366.

[14] Id. at 366.

[15] Florendo v. Cadano, A.M. No. P-05-1983, October 20, 2005, 473 SCRA 448, 455.

[16] Martinez v. Zoleta, 374 Phil. 35, 47 (1999).

[17] Florendo v. Cadano, *supra* note 15.

[18] Marata v. Fernandez, A.M. No. P-04-1871, August 9, 2005, 466 SCRA 45, 48-49; Lagatic v. Peñas, Jr., 342 Phil. 12, 20 (1997).

[19] Maderada v. Mediodea, 459 Phil. 701, 719 (2003).

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