

PASTOR C. PINLAC, COMPLAINANT, VS. OSCAR T. LLAMAS, CASH CLERK II, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, SAN CARLOS CITY, PANGASINAN, RESPONDENT.

A.M. No. P-10-2781 (Formerly OCA IPI NO. 02-1419-P). November 24, 2010

Ponente: BRION, J.

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BRION, J.:

We resolve as an administrative matter the letter-complaint,[1] dated April 24, 2002, of complainant Pastor C. Pinlac, charging respondent Oscar T. Llamas, Cash Clerk II, Regional Trial Court (RTC), Office of the Clerk of Court, San Carlos City, Pangasinan, with violation of Republic Act No. 3019 and/or misconduct.

The complainant alleged that he went to the Office of the Clerk of Court, San Carlos City, Pangasinan, to seek assistance for the facilitation of the titling of the land that he and his siblings inherited from their deceased parents. The respondent offered him assistance, but asked for an initial sum of P2,000.00. The complainant acceded and gave the demanded amount; subsequently, he gave the respondent another P2,000.00 after the latter had claimed that the initial amount was insufficient. The complainant alleged that he gave the respondent a total of P10,000.00. Despite all these and the lapse of two years, the respondent failed to deliver the promised title.

In his Comment, the respondent denied having received P10,000.00 from the complainant. The respondent explained that the complainant went to his office and told him that he needed a surveyor. Since the respondent knew a surveyor who worked at the Department of Environment and Natural Resources, he asked the complainant if he wanted to avail of this surveyor's services. When the complainant agreed, the respondent introduced him to said surveyor. The respondent has maintained that the complainant gave the money to the surveyor, not to him. When the surveyor failed to secure the title to the land, the complainant instructed him to talk to the surveyor to ask for the return of the money. The respondent prays that the complaint against him be dismissed in view of the affidavit of desistance that the complainant subsequently filed during the pendency of this administrative case.[2]

In a letter[3] to this Court dated August 20, 2002, the complainant stated that the respondent went to his house on August 15, 2002 and returned to him the full amount of P10,000.00. The respondent pleaded with him to withdraw his complaint because he did not want to lose his job. Subsequently, he and the complainant went to the office of Atty. Salvador T. Imus, Jr. where he (the complainant) executed an Affidavit of Desistance and/or Retraction. The complainant continued to maintain that it was the respondent and not the surveyor who received the money from him.

In our Resolution dated January 15, 2003, we referred the case to the Executive Judge of the RTC of San Carlos City, Pangasinan, for investigation, report and recommendation. Thereafter, Investigating Judge Anthony Q. Sison conducted a hearing on the case. It was established during the hearing that the respondent introduced the complainant to the surveyor; the complainant handed the P2,000.00 initial fee to the respondent who, in turn, turned this money over to the surveyor; and the complainant gave the succeeding payments of P2,000.00 and P6,000.00 directly to the surveyor.

The Court, in its Resolution of June 10, 2003, accepted the resignation of the respondent as Cash Clerk II, Office of the Clerk of Court, RTC, San Carlos City, Pangasinan, without prejudice to the continuation and outcome of the administrative complaint against him.

In his Report dated January 5, 2009, Judge Sison found the respondent liable for violating reasonable office rules and regulations, and recommended that he be meted a P5,000.00 fine.

The Court referred Judge Sison's report to the Office of the Court Administrator (OCA) for evaluation, report and recommendation. The OCA, in its Report dated December 15, 2009, recommended that the respondent be found guilty of violating reasonable office rules and regulations, and be meted the penalty of fine in the amount of P5,000.00, to be deducted from his retirement benefits.

The OCA reasoned out as follows:

The primordial question to be resolved now, thus, is whether or not the act of Llamas, then an employee of the court, in introducing a surveyor to Pinlac and receiving the initial amount of P2,000.00 and then turning over the said amount to the surveyor just to ensure that said surveyor will take care of Pinlac, proper under the surrounding circumstances.

The above-quoted admission does not establish that Llamas acted as a middleman for consideration or profit forging the deal between Pinlac and the surveyor. However, by his acts, Llamas allowed himself to appear to be acting as an agent, broker, or a middleman to Pinlac and the surveyor.

Even assuming that Llamas's intention in helping Pinlac was noble and true, he should have been more circumspect in his actions. As an employee of the court, Llamas should not only had seen to it to have acted accordingly. He should have ensured that his acts are devoid of any spec or semblance of impropriety.

The image of the court as a bastion of justice depends to a large extent on the personal and official conduct of its employees. Thus, from the judge to the lowest clerk, judicial personnel have the sacred duty to maintain the good name of the judiciary. Court personnel, from the presiding judge to the lowliest clerk, are further required to conduct themselves always beyond reproach, circumscribed with the heavy burden of responsibility as to free them from any suspicion that may taint the good image of the judiciary. Employees of the judiciary should be living examples of uprightness not only in the performance of their official duties, but also in their personal and private dealings with other people, so as to preserve at all times the good name and standing of courts in the community.

THE COURT'S RULING

We cannot fully agree with the OCA's findings and recommendations as these merely dwell on the patently obvious, and fail to deduce what cannot be missed from the obvious facts.

We have stressed time and time again that all officials and employees involved in the administration of justice, from judges to the lowest rank and file employees, bear on their shoulders the heavy responsibility of acting with strict propriety and decorum at all times in order to merit and maintain the public's respect for and trust in the Judiciary. In the simplest terms, all court personnel must conduct themselves in a manner exemplifying integrity, honesty and uprightness.[4]

In the present case, the findings of facts show that the complainant met the respondent at the courthouse while the complainant was working on the titling of an inherited property. The respondent offered assistance and introduced the complainant to the surveyor, to facilitate the desired titling. While this introduction might have been an innocuous move, as the Investigating Judge saw it, the surrounding circumstances of the move should have alerted the Judge and the OCA that it might not have been as neutral nor as legitimate as it seemed.

In the first place, the respondent was a Cash Clerk II whose duties did not involve the discussion of pending cases with litigants; cash clerks solely attend to official financial transactions between the court and outside parties dealing with the court. It appears from the records, too, that the complainant and the respondent had no previous relationship that would have justified the assistance the latter offered outside of the scope of his official duties. They were not friends, relatives, or acquaintances to each other; they appear to have met in the course of the complainant's visit to the court to work on the titling of his property. Thus, their initial common point of interest was the titling of land that was then pending before the court where the respondent worked.

Second, the referral to the surveyor was not an ordinary concern of a cash clerk and was not a casual referral; the respondent appeared to have gone out of his way to get the complainant and the surveyor to meet. In fact, the surveyor was from another office and a meeting necessarily had to be arranged, and was indeed arranged by the respondent.

Third, in the course of the meeting, a transaction was undisputably arranged where the surveyor was to work on the titling of the land for a fee. Significantly, the task was not simply to do a survey, as can be expected of surveyors, but to work on the titling and the release of the title.

Lastly and most importantly, the first payment was made to the respondent himself, thus indicating that his role was not as neutral as the simple "assistance" that he termed it to be. He was a part of the transaction, although he ostensibly handed the first payment to the surveyor and the latter made all the subsequent billings. We find it significant, in this regard, that the complainant made his follow-up on the release of his title with the respondent and had even asked the respondent to contact the surveyor for the return of the money paid. These indicated how active and deep the respondent's role was.

Under these circumstances, we consider it shortsighted to simply conclude, as the OCA did, that the respondent rendered a simple assistance and did not act as an active middleman in the transaction. The facts before us relate to realities that we find often enough among the offenses that the Court addresses in its constitutional role of supervising judicial officials and employees - the offense that in common lay terms is referred to as "fixing." Fixing may range from the patently corrupt act of serving as middleman between a litigant and the decision maker, to rendering illegal and out-of-the-way assistance such as providing referral service to lawyers and other participants in court cases, or providing information such as the identity of the ponente, all for a fee, or, likewise for a fee, intervening to facilitate court processes such as the release of court papers or providing advance and illegitimate copies of drafts or final but unpromulgated decisions. To be sure, these are not newly-heard activities as invariably in many courts, even in this Court, there are officials and employees who can never seem to resist these kinds of tempting activities.

In the present case, we are convinced, after going beyond the obvious facts, that the respondent was acting as a "fixer," and was not simply rendering "assistance" because he was impelled to render the ideal in public service of catering to clients' legitimate needs. We disagree, too, with the OCA conclusion that the complainant's actions were simply inappropriate because "Llamas allowed himself to appear to be acting as an agent, broker, or middleman to Pinlac and the surveyor." This OCA conclusion glosses over the other circumstances pointed out above that, although not highlighted, are not disputed and are for the decision maker to properly appreciate and evaluate. Missing among the pieces of direct evidence, of course, is the actual agreement between the respondent and the surveyor as well as the actual division of spoils - evidence that would have clearly brought the present case within the realm of criminal anti-graft laws. The omissions of these pieces of direct evidence, nevertheless, the conclusion - from the undisputed facts and the directly deduced circumstances - is inescapable that the respondent was not simply rendering a legitimate service but had ventured into the field of fixing.

Neither can we agree with the respondent's theory that the administrative case against him should be dismissed in view of the complainant's affidavit of desistance and/or retraction. We reiterate the settled rule that administrative actions cannot depend on the will or pleasure of the complainant who may, for reasons of his own, accept and condone what is otherwise detestable. Neither can the Court be bound by the unilateral act of the complainant in a matter relating to its disciplinary power. Desistance cannot divest the Court of its jurisdiction to investigate and decide the complaint against the respondent. Where public interest is at stake and the Court can act in relation to the propriety and legality of the conduct of Judiciary officials and employees, the Court shall act irrespective of any intervening private arrangements between the parties.[5]

Nor can we agree with the OCA's recommendation that the respondent be found guilty of violating reasonable office rules and regulations, as no particular office rule or regulation was shown to have been violated by him. We instead find the respondent liable for grave misconduct. Misconduct has been defined as an unacceptable behavior that transgresses the established rules of conduct for public officers.[6] The misconduct is grave if it involves the additional elements of corruption, willful intent to violate the law or disregard of established rules. Otherwise, the misconduct is only simple.[7]

In the present case, the respondent's act, more than anything else, is closer to the direct solicitation or acceptance of money in connection with an operation directly being acted upon by the court of which he was an employee, which the Civil Service Rules penalize as a grave offense. As the complaint states (and this was never disputed), the respondent offered assistance to the complainant, but the offer was for a fee that was in fact paid, although the fee was ostensibly handed over to the surveyor with whom a meeting had to be arranged by the respondent. In this role, the respondent acted as an active intermediary in a fee transaction between the surveyor and the complainant who was not even a friend, relative nor an acquaintance to whom, under unique Filipino cultural practices, one may understandably be beholden to render some assistance.

The respondent's acts would have squarely fallen under Section 52(A)(11), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service (CSC Memorandum Circular No. 19, series of 1999),[8] were it not for the proven turnover of the initially demanded P2,000.00 to the surveyor. Other than on the basis of this provision, however, the respondent is liable under Section 52(A)(3) for grave misconduct.

It is a misconduct because the respondent acted as an active and willing intermediary who had demanded and received money in relation to a case pending before the court where he worked.[9] It is grave because the offer to help for a fee shows his willingness and intent to commit acts of unacceptable behavior, transgressing established and serious rules of conduct for public officers and employees.[10] In short, the respondent undertook acts amounting to fixing, that the Court must necessarily recognize and penalize, as they were made under circumstances that unavoidably leave a heavy and adverse taint on the image of the Judiciary.

Grave misconduct carries the penalty of dismissal for the first offense, a penalty we cannot now impose in light of the respondent's resignation. We consider, too, as we did in *Office of the Court Administrator v. Marcelo*,[11] that the imposition of this penalty can be tempered with compassion. In this case, the respondent appears to have returned the amount the complainant had paid. The respondent, too, chose to resign from his post even before the full resolution of this case. Under these circumstances and on the authority of the legal leeway granted to this Court in the supervision of officials and employees of the Judiciary, we do not find it amiss to impose a penalty lesser than the dismissal that the Civil Service Rules mandate. Hence, in lieu of dismissal and its equivalent, we impose on the respondent a fine of Twenty Thousand Pesos.

As our last word, we highlight in this case the unacceptable and deplorable act of "fixing" for which not a few judiciary officials and employees have already been penalized. To be sure, the acts they were held accountable for

might not have been labeled as fixing and may have come under other labels as the gravity may differ in degrees. In essence, however, the act of fixing, as defined in lay terms in this Decision, had been committed.

We particularly invite attention to this deplorable act to draw the attention of all concerned that between the act of beneficial and legitimate assistance and illegal fixing is a thin red line that judicial officials and employees must never cross; assistance should only be to the extent of what one can legitimately deliver, given as part of the duties as public servants, and with the best of motives; it can never go beyond the extent allowed us by law, and never for a fee, a gift, or for the promise of personal benefit to the assisting official or employee.

When that line is crossed, this Court will not hesitate to call the act for what it truly is - an illegality that must be condemned and for which the erring judge, official or employee shall be severely penalized as a retribution for the harm done and as an example of how this Court acts to maintain public trust, by ensuring that the image and integrity of the Judiciary are not compromised.

WHEREFORE, respondent Oscar T. Llamas is found GUILTY of grave misconduct. In light of his prior resignation and out of compassion, we impose on him a FINE of TWENTY THOUSAND PESOS (P20,000.00) for which he shall be held personally liable even beyond whatever benefits may still be due him by reason of his past service. No costs.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Rollo, p. 1.

[2] Id. at 7.

[3] Id. at 12.

[4] In Re: Improper Solicitation of Court Employees - Rolando H. Hernandez, Executive Assistant I, Legal Office, Office of the Court Administrator, A.M. No. 2008-12-SC (formerly A.M. No. 08-7-4-SC), April 24, 2009, 586 SCRA 325, 333.

[5] Rodriguez v. Eugenio, A.M. No. RTJ-06-2216 (formerly OCA I.P.I. No. 04-2037-P), April 20, 2007, 521 SCRA 489, 497.

[6] See Office of the Court Administrator v. Nitafan, A.M. No. P-03-1679, June 16, 2003, 404 SCRA 1, 5.

[7] See Civil Service Commission v. Ledesma, G.R. No. 154521, September 30, 2005, 471 SCRA 589, 603.

[8] Resolution No. 991936, August 31, 1999.

[9] Section 2(b), Canon III of the Code of Conduct for Court Personnel reads:

SEC. 2. Court personnel shall not:

x x x x

(b) Receive tips or other remunerations for assisting or attending to parties engaged in transactions or involved in actions or proceedings with the Judiciary.

[10] See Canlas-Bartolome v. Manio, A.M. No. P-07-2397, December 4, 2007, 539 SCRA 333; Salazar v. Barriga, A.M. No. P-05-2016, April 19, 2007, 521 SCRA 449.

[11] A.M. No. P-08-2512, August 11, 2008, 561 SCRA 535.

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